

**CLINTON 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. Please read these rules carefully.

I. ORGANIZATION

(A) The Clinton County Board of Revision (hereafter “Board”) shall be considered open each day from the organizational meeting until December 31 of that same year. The principal office of the Board shall be c/o the Clinton County Auditor, 46 S. South Street, Suite 130, Wilmington, OH 45177, and shall be open for business from 8 A.M. to 4 P.M. except for Saturdays, Sundays, legal holidays, and days the Clinton County Board of Commissioners chooses to close the county buildings. All submissions to the Board shall be to the address referred to in this section.

(B) The County Auditor, as secretary of the Board, shall call the Board together as often as necessary during any year. Hearings of the Board shall be at times designated by the Auditor or the Board. All sessions and hearings shall be open to the public, unless the Board is meeting to discuss executive session items provided for in Ohio Revised Code section 121.22, and shall stand and be adjourned without further notice thereof on its records.

II. ENTRY OF APPEARANCE AND CHANGE OF ADDRESS

(A) Entries of appearance by counsel in any matter shall be in writing.

(B) Any change of address of a party or counsel of record must be in writing, filed with the Board, and be clearly designated as a change of address. Failure to file a change of address will result in the Board sending all notices to the address listed on the original filing.

III. COMPLAINT

(A) A complaint shall be filed within the time and manner prescribed by law. Where the complaint is filed by a taxing district, it shall be in the name of said district and the required paperwork shall be executed by an individual duly authorized by the governing body thereof, or by the attorney for said taxing district.

(B) The complaint form prescribed by the State of Ohio Tax Commissioner shall be **fully** completed, signed by the complaining party, or other person provided for under these Rules, notarized, and filed with the Board in care of the Clinton County Auditor’s Office. An incomplete form may be dismissed for lack of jurisdiction.

IV. SERVICE

(A) Unless otherwise allowed by the Board, all motions, briefs, papers, and other documents filed with the Board subsequent to the filing of the complaint shall be served on all parties.

(B) Said motions, briefs, papers, and other documents shall contain a certificate of service indicating that the required service has been made, the manner of service, and the names and addresses of the parties or attorneys upon whom service has been made.

(C) Said motions, briefs, papers, and other documents shall be signed by the party, representative provided for in these Rules, or attorney, and shall comply with Ohio Rule of Civil Procedure No. 11.

(D) Service upon an attorney, party, or other representative provided for under these Rules, shall be made by delivering or mailing a copy to the last known address of that person. Service by mail is considered complete upon mailing.

V. 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 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 \$17,500 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 decide to negotiate or mediate a reasonable settlement with the property owner, 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. Filing deadline is March 31st according to Ohio Revised Code 5715.19. The Board of Revision deems it necessary to have a start date for filing complaints on January 2nd.
- I. It is the intent of the Board of Revision to complete all hearings and rescheduled hearings by August 31st of every year.

VI. 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. The owner of the property, or an appropriate expert witness, is required to be present in order for testimony to be given.
- 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.
- E. Any document submitted as evidence that was prepared by an individual not present at the hearing shall not be considered because the individual cannot be questioned by the Board.

VII. 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 appearing refuses to be sworn or answer any question put to him/her by the Board or by its order, the Board of Revision may request a subpoena be issued for said person by the Probate Court. [ORC 5715.10]
- 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 testimony, 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.
- E. 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 may testify about his/her opinion of value.

VIII. EVIDENCE OF VALUATION

- A. Evidence of valuation must relate to the 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 reduction.

- B. The Board of Revision may increase or decrease the total value of any parcel included in the complaint.
- C. Evidence presented must have a valuation date of January 1st of the Tax Year under review.
- D. The owner's opinion of value may 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 recent appraisal done by a licensed appraiser (please see Section "II" Items "D" & "E" in Appearance before the Board of Revision, and also section "V" Submitting Evidence to the Board of Revision, all Items). The documentation may also include evidence of personal property included in the transaction.
 - Photos and a sketch typically support physical data changes.
 - Comparable sales must be "Arm's Length Transactions" as prescribed by the Ohio Revised Code Section 5713.03. The Clinton 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 appliances, boats, autos or furniture. You must disclose the negotiated value of these items or provide the chattel deed.
- 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.
- H. The Board of Revision will 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

IX. SUBMITTING EVIDENCE TO THE BOARD OF REVISION

- A. A party to the complaint intending to introduce evidence involving expert opinion must file with the Board of Revision a summary of that opinion and a summary of the expert's qualifications at least ten (10) days prior to the time of the hearing on the complaint.

- B. If an appraiser will testify, a copy of the appraisal must be filed at least ten (10) days prior to the time of hearing. A copy of the appraisal shall be served upon other parties to the complaint at least ten (10) days prior to the time of the hearing.
- Please see section “II” Items “D” & “E”, 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 is not submitted within the time parameters listed above, it **WILL** be excluded from the hearing unless good cause is shown as to why the appraisal was not delivered to the Board in a timely manner. If, at its sole discretion, the Board decides to allow such an appraisal, it may result in the need to continue the hearing to a later date to give the Board of Revision adequate time to review the appraisal.
- 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.
- 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]
- F. For income-producing, commercial or industrial property, the Board of Revision requests the following information shall be submitted to the Board of Revision.
1. Physical data
 - A description of the improvements to the property, including age, construction, size, mechanical equipment, 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.
 2. 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 identity and description (include size and type) of each rental unit.
 - 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.
3. Other information
- Provide current zoning status of property.
 - Provide a sketch, map and floor plan of the buildings (not required for apartments).

X. 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 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 to, 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 shall 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 case of serious illness the Board of Revision shall reschedule another hearing date provided reasonable notice is given.
- 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 of the Complainant’s burden to prove an alternative valuation than that of the Auditor.

XI. 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.

XII. COMMON GROUNDS FOR DISMISSAL

- A. A complaint for the current tax year shall be filed with the County Auditor on or before the thirty-first (31st) day of March of the ensuing tax year [ORC 5715.19 (A)(1)].
- 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 in Section 8 on DTE Form 1.
- D. The signature on the complaint must be of the owner, an attorney, or other permitted individual.

XIII. WHO CAN SIGN THE COMPLAINT

- A. The preparation, signing and filing of a complaint on behalf of another person constitutes the practice of law.
- B. The signature on the complaint must be the owner of the property, an attorney, or general partner of a partnership, trustee of a trust, spouse of the owner, officer of a corporation, member of an LLC, or a court-appointed receiver.

XIV. REMITTANCE OF RECOUPMENT CHARGES AND REINSTATEMENT TO CAUV

A. Good Cause (Revised Code 5713.351)-If a conversion occurs because of a failure to file an initial or renewal application, the owner may do the following:

(1) Apply to the auditor (and pay a fee of \$25.00) for a determination whether the land would meet the CAUV use test;

(2) If the auditor finds that the CAUV use test would be satisfied, the owner may file a complaint as provided in section 5715.19 (by March 31 of the following year) for a determination by the board of revision whether the good cause test was satisfied.

(3) If the board of revision finds that the owner's failure to file an application was for good cause, the applications filed under this procedure will be considered a properly filed application for purposes of section 5713.31, providing a history of no recoupment charge for the last three tax years.