

12.05.053 - Procedures.

- A. *Preparation of appeal packet.* The municipal assessor shall furnish a panel of the board of equalization with copies of the appellants appeal and a summary of assessment data relating to the appeal. Such material shall be considered as part of the official testimony the board may hear. The assessor or his representative may supplement the record by additional testimony, documentation and exhibits in accordance with subsection C.7 of this section.
- B. *Quorum and voting.*
1. *Quorum.* A quorum for hearing appeals shall consist of three panel members.
 2. *Voting.* The granting of any appeal or part thereof shall require the concurring vote of two members of the panel. Any appeal or part thereof which is not granted by the panel shall be considered denied.
- C. *Conduct of hearings; decisions.* Except as otherwise provided in this chapter, hearings shall be conducted by each panel in accordance with the following rules:
1. *Record.* The assessor shall keep verbatim stenographic records or electronic recordings of the board's proceedings, showing the vote of each member on every question and all of the evidence presented. The assessor shall prepare written minutes for all board proceedings and such minutes shall be signed by the presiding officer of the panel.
 2. *Counsel.* All parties may be represented by counsel during hearings before the board. On procedural matters the municipal attorney may offer legal counsel to the board in the course of its proceedings. Upon the recommendation of the Municipal Attorney, the board may retain independent legal counsel for a particular matter.
 3. *Case number.* Every appeal shall be assigned a case number which shall be read into the record along with the name of the appellant and the tax identification number, at the commencement of the hearing on that appeal.
 4. *Burden of proof.* The burden of proof rests with the appellant. The only grounds for adjustment of an assessment are unequal, excessive, improper or under valuation based on the facts stated in a valid written appeal or proven at the appeal hearing in accordance with subsection 7 of this section. If the valuation is found to be too low, the board may raise the assessment. The municipality shall make available to the appellant all reasonably pertinent documents requested for presentation of the appeal.
 5. *Rules of evidence.* Evidence shall only be presented by the appellant and the assessor or their authorized representative. The board shall not be restricted by the formal rules of evidence; however, the presiding officer may exclude evidence irrelevant to the issues appealed. Hearsay evidence may be considered provided that there are adequate guarantees of its trustworthiness and that it is more probative on the point for which it is

offered than any other evidence which the proponent can procure by reasonable efforts. The appellant must submit to the assessor's office all documentary evidence in their possession which they wish to be considered and which is relevant to the resolution of the appeal. This evidence includes but is not limited to purchase and closing documents, appraisal reports, brokers opinion of value, engineers reports, estimates to repair, rent rolls, leases, and income and expense information. The panel hearing the case must sustain the original assessed value if the relevant evidence is not submitted to the assessor's office within 15 days from the close of the appeal period. The appellant and assessor may agree to an extension of time for the production of evidence.

6. *Order of presentation.* The appellant shall present evidence and argument first. Following the appellant, the assessor or his representative shall present the municipality's evidence and argument. Each party shall be allowed a total of five minutes to present evidence, and make oral argument unless additional time is permitted by the presiding officer. The appellant may, at the discretion of the presiding officer, make a rebuttal presentation, not to exceed five minutes, directed solely to the issues raised by the assessor. The municipal attorney may question the appellant or the assessor on matters relating to the appeal. The members of the board may ask questions, through the presiding officer, of either the appellant or the assessor at any time during the hearing. After both the appellant and the assessor have made their presentations, each may question the other through the presiding officer. The presiding officer may end the questioning and call for a motion from the other panel members.
7. *Witnesses, exhibits and other evidence.* The appellant and the assessor may offer oral testimony of witnesses and documentary evidence during the hearing. Documents to be submitted as evidence by the appellant must be filed with the assessor no later than 15 days from the close of the appeal period unless the appellant and assessor agree to an extension. If an appellant has refused or failed to provide the assessor or assessor's agent full access to property or records, the appellant shall be precluded from offering evidence on the issue or issues affected by that access and those issues shall be decided in favor of the assessor. All testimony before the board shall be under oath.
 - a. At the request of the appellant, evidence submitted pursuant to subsection C.5 or C.7 of this section relating to the assessed valuation of property used in an income-producing commercial enterprise shall be confidential. The assessor and the appellant may stipulate to facts to be presented to the board provided the assessor has received credible and reliable evidence to establish the facts.
8. *Decisions.* At the conclusion of the hearing the panel shall determine, based solely on the evidence submitted, whether the assessment is unequal, excessive, improper or under

valued. The panel shall issue findings of fact and conclusions of law clearly stating the grounds upon which the panel relied to reach its decision and advising all parties of their right to appeal the decision to superior court.

9. *Certification.* The presiding officer shall certify the decision of the panel regarding an appeal to the assessor within seven days following its issuance. The presiding officer shall review and give final board certification to all such decisions.
 10. Termination of appeal upon agreement between appellant and assessor. After an appeal to the board of equalization has been filed, any value which has been agreed to by the assessor and the appellant, shall constitute a withdrawal and termination of the appeal by the appellant and the agreed upon valuation shall become the assessed value.
- D. *Appeal to superior court.* The appellant or the assessor may appeal a decision of the board to the superior court within 30 days in accordance with the rules of appellate procedure of the state.

(AO No. 97-41, § 1, 3-4-97; AO No. 99-129, § 1, 9-28-99; AO No. 2003-159(S), § 3, 12-16-03)

Editor's note— Former subsections 12.05.050.C.—F. were recodified as a new section 12.05.053. Refer to the history note for section 12.05.050.