

SHELBY COUNTY BOARD OF EQUALIZATION POLICIES AND PROCEDURES

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Tennessee State Law creates county boards of equalization and they serve two broad functions in the advalorem valuation process:

- * The provision of an open and impartial forum to which citizens can bring their complaints with the respect to real estate and personalty values
- * The preservation of a fair and equalized tax base for the justifications whose citizens they serve

Traditionally, boards of equalization operate under the bastion of the county assessors' offices throughout Tennessee, and in most cases have utilized the assessors' staff in performing their work. While the SCBOE maintains independence in decision making, and will employ a staff, it will follow the tradition throughout the state and utilize the Shelby County Assessor's Office for administrative assistance.

Duties (TCA 67-5-1402)

The county board of equalization shall have and perform the following duties:

- * Carefully examines, compare, and equalize county assessments
- * Assure that all taxable properties are included on assessment lists
- * Eliminate from assessment lists such property as is lawfully exempt from Taxation
- * Hear complaints of taxpayers that feel aggrieved because of what they believe to be excessive assessment of their property
- * Decrease the assessments of such properties as the board determines have been excessively assessed
- * Increase the assessments of such properties as the board determines have been underassessed, provided the owners of such properties are duly notified and given an opportunity to be heard
- * Correct errors arising from clerical or other obvious mistakes that may be brought to the attention of the board
- * Take necessary steps to assure that the assessments of all properties within its jurisdiction to conform *to the laws* of the state, established policies and procedures of Shelby County Government, rules and regulations of the state board of equalization and accepted ethical practices.

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The right of property owners to appeal property values and the defense of those property values by the assessor's office are an integral part of the assessment process. The Shelby County Board of Equalization's responsibility in the assessment process is to provide the property owner and the Assessor's Office with a forum to present evidence to impeach or support property values. The board must weigh the evidence offered by both the property owner and the Assessor. Decisions should be based on the weight of the evidence.

The assessment process derives value for real property through the reconciliation of the three approaches to value:

- the sales comparison approach;
- the cost approach; and
- the income approach

These three approaches are applied to each type of property within each taxing jurisdiction. The type of property that is being appraised dictates the weight given to each approach and the amount and quality of the data used to develop each value. Although each approach to value is considered in the assessment process, not every approach is useful for valuing all properties.

The issue of higher taxes can be volatile and therefore politically sensitive. *Therefore* the SCBOE bears a special responsibility to create an atmosphere of fairness.

With that in mind, the board is issuing a statement that will set forth the policy and procedure followed during Board Sessions. In order to better describe the statutes that direct the SCBOE and to help explain the purpose of a county board of equalization, much of the following information is taken directly from the Tennessee Code Annotated Volume 12.

Conflict of Interest

All board members will file, annually, any potential conflict of interest statement. When a conflict arises, the Board Member will recuse himself or herself from voting. The Charter states that no conflict of interest or appearance of conflict of interest will be allowed. Possible conflicts may include personal or business relationships, property ownership or other issues.

Open Meetings and Public Records (TCA 8-44-101)

The SCBOE, like other states and local agencies, is subject to the "sunshine" or open meeting law. This law requires that reasonable public notice to be given of meetings, and that they are open to the public. This would include voting decisions during hearings. The law further requires that minutes to be kept and made available for public inspection and that any action taken in violation of the law is void and of no effect.

The SCBOE runs public notice, by way of the Assessor, when the board session officially begins. Tennessee Code Annotated provides that the board must open its session on the first Monday in May.

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The City of Memphis and County of Shelby will be advised in writing of the schedule of the full Board for purposes of public posting.

Board members should not accept information concerning assessments or discuss assessments or other business of the Board among themselves except at meetings in which proper notice has been given, *except in cases where information has been requested in advance by the Full SCBOE*.

County Attorney Represents Board

The Shelby County Charter provides that the Office of the County Attorney represent all departments, elected officials, divisions, offices, boards, agencies, commissions, and all employees. If the Board should determine to litigate against county government, the Board may ask the County Commission or the Mayor to retain an outside attorney on a contract basis to protect the interest of the Board.

Assistance from the Office of the Assessor (TCA 67-5-1403)

It is the duty of the Assessor of Property or Deputy Assessor to meet with the SCBOE on the first day of its session, and to render to the SCBOE assistance in the performance of its official duties in equalizing assessment.

Assessor Recommendations (TCA 67-5-1403)

The Assessor of Property, or Deputy Assessor, may recommend to the Board that changes of assessment or classification be made from those certified in the report of assessments required under TCA 67-5-304, but such recommended changes shall not be numerous as to the amount of the general reappraisal of class or type of property.

All Assessor Recommendations (ARs) must be submitted to the SCBOE prior to the filing deadline for appeals and will be accepted in the following two manners:

In the case of an agreement of value with the property owner, and an agreement letter is attached to AR form. In these cases, the AR form and the agreement letter will serve as the written appeal. The taxpayer will be notified when this change is processed in the Assessor's records.

Recommendations from the Assessor that are not agreed to by the taxpayer must be presented individually and with a reason for the change before filing deadline for appeals. In the cases where the board deems the change necessary, the taxpayer will be notified, allowing him or her to accept the recommended change or to accept a hearing before the SCBOE to determine the value of the property.

Prior to being scheduled on a docket, all Assessor Recommendations should be diligently checked for duplicate appeals. If such *exists* the property owner will be advised in writing of the conflict and the parcel will not be scheduled for a hearing until the conflict is resolved.

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Correction of Errors Issued by Assessor (TCA 67-5-509)

Whenever the Assessor shall discover, or become informed, that there has been an error or omission in the listing description, classification assessed value of property, or any other error or omission in the tax rolls held by the Trustee or municipal collector, the Assessor shall certify in writing the facts and the reasons for changes *to* the Trustee or municipal collector. Errors or omissions correctable under this application include only obvious clerical mistakes, involving no judgment of, or discretion by, the Assessor, apparent from the face of the official tax and assessment records, such as the misplacement of a decimal point or mathematical miscalculation, errors of classification and duplicate assessment. Not included as correctable herein are clerical mistakes in tax reports or schedules filed by a taxpayer with the Assessor? These corrections must be requested by the taxpayer, or initiated by the Assessor prior to March 1, no more than the second year following the tax year for which the correction is to be made.

Should the Assessor fail or refuse to correct any errors as provided herein within thirty (30) days after being requested to do so, or should the correction of any error result in an increase in an assessment, any person aggrieved thereby may appeal directly to the SCBOE if appeal is received within the deadline established for filing appeals. Otherwise, appeals may be filed within forty-five (45) days after the assessor's failure or refusal to correct the error or within forty-five (45) days after the assessor sends notice of any assessment change resulting from the correction.

Back Assessment/Reassessments

Aggrieved property owners wishing to appeal a value assigned to a property in this manner may file an appeal with the SCBOE within 30 days of receipt of notice. Otherwise, appeals may be filed with Tennessee State Board of Equalization.

Personal Property

All dockets and letters of decision will show the 100% value as well as the equalized value.

Greenbelt/Tax Exempt Status

Value will be shown with the breakdown stipulating market and greenbelt values with a breakdown as to the land and improvements.

Hearing Officers (TCA 67-5-1406)

The SCBOE may utilize hearing officers to facilitate the appeals process should the number of appeals be sufficient to justify such action. These officers *could* be members of the SCBOE. By state law, hearing officers are *appointed* by the County Board of Equalization, and the County Commission then *approves* the Board's appointments. *T.C.A. §67-5-1406(a)*. Because the County Commission does not appoint hearing officers (but only "approves" the County Board of Equalization's appointments), Commission Rule 35(e) regarding notice of vacancy and appointment of board members is inapplicable to approval of hearing officers.

The hearing officers shall assist the county board and prepare proposed findings of fact and conclusions and recommend the same to the SCBOE. The SCBOE may adopt any recommendation of such hearing officers as its final decision, provided that any property owner who desires to be heard directly by the SCBOE is given the opportunity for such hearings.

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Appointments will be scheduled with hearing officers in ten to fifteen *minute* intervals by the staff of the SCBOE as soon after certification of the tax roll as is practical. These informal hearings *may* run concurrent with the SCBOE's regular *and or special* session.

Filing of Appeals (TCA 67-5-1407)

Any taxpayer or owner of property liable for taxation in the state shall have the right by personal appearance or by the personal appearance of the duly authorized agent of the property, to make complaint before the County Board of Equalization.

All appeals must be submitted on the SCBOE adopted appeal form. Electronic filing is acceptable, but must be followed by hard copy. The reason for the appeal must be specified on the petition and supporting evidence attached. All incomplete petitions or petitions with incorrect information will be returned to the filer for resubmission in a proper manner; however, the initial filing constitutes an appeal. Appeals will be accepted during the tax year until the end of the regular session.

Letter of Authorization/Letters of Engagement (TCA 67-5-1412)

Taxpayers and the Assessor of Property may appear in person, by qualified agent, or, in the case of taxpayers by a member of the taxpayer's immediate family. An agent and/or attorney shall not have the power to appear for or to act on behalf of a taxpayer unless the agent presents a written authorization form from the taxpayer *with the appeal*. *Such written authorizations shall be specifically for the current tax year*. All agents will be required to submit *an individual* letter of authorization or letter of engagement with parcel number specified prior to a hearing for a parcel to be scheduled on a docket. Letters of authorization/engagement will be attached to the appeal *form* and a copy of such will be provided to the Assessor's Office.

Duplicate Filings.

All petitions which have been filed by more than one representative, or by the individual property owner and a representative will be identified and resolved prior to scheduled hearing date. A letter of authorization issued by the property owner specifically for the parcel under appeal must be presented by the representative in order for the SCBOE to recognize the validity of the petition filed by that representative. If the issue is not resolved, the appeal will be dismissed as not valid, and the agent may be reported to the appropriate board of ethics.

Scheduling of Hearings

All petition filers will be given the opportunity to have an informal hearing with a hearing officer. The appointments will *generally* be scheduled as to classification first and region second. If the filer desires to be heard by the full board instead of the hearing officer, these hearings will be scheduled by classification.

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Hearings (TCA 67-5-1408)

The SCBOE must hear any complaint that is filed while the board is in regular session and that relates to the current year under review. A hearing may not be refused on the grounds that an appeal for a prior year is pending with the state board for a prior year, but will be taken into consideration. *It will be requested that the County Assessor provide the SCBOE with the results of appeals heard at the state level or by the state.* This information will be included on the parcel data sheet. *The request of information by an individual Board Member during a hearing will be binding unless specifically denied by majority of Board Members present.*

It is the duty of the Board to bring before it the Assessor and propound to him or her such questions as are proper to ascertain the manner in which the value was determined by him or her and other questions as will aid the Board in the equalization of assessments. The Board shall work to gather like properties to be heard on the same day.

In the case of Commercial Property hearings, prior to the taxpayer beginning its presentation, the Assessor's Appraiser or Board of Equalization (Chairman) will open the hearing by stating the physical aspects of the subject property in detail sufficient for the board members to know, as is appropriate for the particular property, the property type, age, location, size, previous evaluation, land size, etc. A format similar to the following hypothetical apartment property will be used depending, of course, on the property type but covering the same general information. The statement should be brief and limited to the subject's physical aspects so as not to pre-empt the taxpayer's testimony. "This case is a 300 unit apartment complex completed in 1985 and extensively renovated in 1998. It is located on the south side of Main Street between Chimney Ridge and Poplar and is known as the Happy Homes apartments. It's located on a rectangular shaped 24-acre parcel of land. The property contains all the amenities of comparable properties such as swimming pools, tennis courts, and clubhouse. It has 100 garages that produce rental income. There are an approximate equal number of one, two, and three bedroom units. The Assessor's office has been furnished with its requested information from taxpayer. The previous valuation was \$14,000,000.

The Board will *maintain* impartiality by enforcing orderly procedures including enforcement of a prohibition on *ex parte* communications, insisting that hearing participants wait to be recognized before attempting to speak or otherwise communicate to the board members, insisting on strict adherence to open meetings requirements, and applying a logical and consistent approach to evaluating and deciding claims. The Board chairman will time each speaker's statements. On no occasion will anyone other than a staff member approach the Board members during a hearing. The Chairman should strive to assure that in no instance should a person be allowed to speak on a matter in which he or she has no *direct* personal or professional interest.

It is the responsibility of the SCBOE Chairperson to maintain orderliness and a proper decorum for all hearings. Improper demeanor and disrespectful arrogance by those appearing before the SCBOE will not be tolerated. In such cases, and after one "warning" by the Chairperson, the board may elect to discontinue the hearing with no decision on the appeal. In cases where either the Assessor's representative(s) or the Tax Payer's representative(s) is guilty of the improper demeanor or disrespectful arrogance, the board may issue a "warning" to the guilty individual(s) with a written notice being sent to the Tax Assessor or the Tax Consulting firm, as the case may be. The warning will advise that a further occurrence of

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such violation will result in the individual (s) being prohibited from future appearances before the board. Also, the taxpayer will be notified in writing of such “warning” to its Tax Representative.

Sessions (TCA 67-1-404c)

Regular sessions of the SCBOE must commence no later than the beginning of May and extend no further than five days prior to the date county taxes are due, which in the case of Shelby County, taxes are due on the first Monday of October of a tax year. This does not apply to special sessions or to any year in which a county completes a reappraisal. If more time is needed to achieve valuation, the Shelby County Commission or Shelby County Mayor may extend the session or call for a special session of the SCBOE.

No hearing will take place without attendance of both the taxpayer/representative and an Assessor’s representative. In cases of an agreement, the signed agreement letter will be accepted on behalf of the taxpayer.

The Board may elect to rehear a property if the rehearing would be rescheduled inside the forty-five (45) days allowed a taxpayer to file to the state.

In instances where a value agreement is reached and will be used as a means to satisfy the appeal, written agreement signed by both parties must be submitted to the S.C.BOE before a decision letter will be issued. Upon submission of the value agreement, the S.C. BOE Executive Director will issue a decision letter.

Election of Officers (TCA 67-1-403)

The SCBOE shall elect one of its members as chair and one as secretary of the board. This will be done on the first day of the regular session or the first day on which all members have been sworn.

Dockets

No dockets prepared by outside sources will be accepted by the SCBOE. All parcels under appeal will be scheduled individually. When an unresolved conflict exists or requests for documentation is not complied with, the appeal will be dismissed.

Dockets will be set ten (10) days prior to schedule hearings. Taxpayers or their representatives will be advised in writing as to the setting of their hearing on a docket and advised what documentation will be needed at the hearing. If the appellant appears at the hearing unprepared, a continuance may not result, at the discretion of the SCBOE.

Discovery (TCA 67-5-1404)

The Board shall exercise its power, authority and unlimited discretion in the matter of obtaining and hearing evidence to assist in the performance of its duties. The board *may* call individuals as witnesses to testify to provide discovery information. The board shall request the production of documents such as actual income statements, expense statements, rent rolls, lease agreements,

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and appraisals. Further, the board shall request any information it deems material in hearing taxpayer appeals.

The appellant/property owner will be requested to bring the same discovery information to the SCBOE hearing as is requested of the appellant by the Shelby County Assessor's Office. For example only; when an income producing property is to be heard and where it is applicable, the SCBOE is to be provided such information as vacancy, rents, ADR, income, expenses, lease terms etc.

This request for information will be included in the SCBOE notice of hearing, which is routinely mailed to appellant.

Any parties failing to respond to the board's discovery request or *failing* to appear before the board shall be subject to sanctions. *Any information not provided as requested shall not be accepted at the BOE hearing.*

On cases where the Market Values amount appealed is \$5,000,000 or more all information and evidence to be presented at the hearings by both taxpayer/representative and Assessor must be furnished to the SCBOE and to each other at least (3) business days prior to the scheduled hearing date. This requirement is to be included in the letter to the taxpayer, which advises them of their right to appeal. At least five copies of evidence are to be submitted.

Decisions (TCA 67-5-1411)

The actions of the SCBOE are final except for revisions or changes by the *State Board*. When a taxpayer successfully appeals a property tax assessment to the *SCBOE*, the taxing jurisdiction must be notified by the Assessor's Office. Any other interested parties may request and receive this information on an "as needed" basis. Reasons for decisions will be tracked on every property. *Decisions will generally be made during the hearing; however a majority vote of members present may delay a decision in the value of a hearing.* Notice of decisions will be sent out in letterform within the 30-day period required by *statutes*. Decision letters will specify a breakdown in land value and improvement value of both the certified value and the board value, the classification along with the assessment, and will go to the Assessor at the same time notice is mailed to taxpayer. The Assessor's Bookkeeping will be responsible for notifying tax collectors. This should create an increased reliability in the assessment data consistency, integrity and *timeliness*. No other entity will prepare or send the decisions of the SCBOE.

A data sheet with a checklist will be prepared for each parcel scheduled for a hearing before the full Board for the members to review pertinent information and record their individual votes. This data sheet will contain such pertinent signature in approval of the decision.

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Letters of Decision

Letters of decision will be mailed to the taxpayer or representative within 3 to 4 weeks of hearing.

The decision letter will clearly state the certified value, the adjusted value, assessment, classification of the property and the reason for the ruling, along with the fact that the taxpayer has a right to file an appeal with the Tennessee State Board of Equalization.

Certification of Assessments (TCA 67-5-1410)

Upon completion of its duties for each session, the SCBOE shall have prepared a certificate signed by each member and filed in the office of the county clerk, viz.:

“We the undersigned members of the Board of Equalization of Shelby County, do hereby certify that we have examined the assessments and classification of taxable property within the county; we have heard and considered all appeals of such taxpayers as have duly made complaint to the county board of equalization; we have made only such changes in assessments and classifications as in our judgment are proper, just and equitable and are *prescribed* by law; and we have faithfully discharged all our duties without fear, favor or affection to the best of our knowledge and ability in accordance with the laws of the state of Tennessee. Witness our hand this _____ day of _____.”

Record of Board’s Actions (TCA 67-5-1414)

Upon the completion of the duties of the Board, the records and paper of the Board shall be turned over to the Assessor of Property for preservation for a period of at least 10 years. Individual property records maintained in the office of each assessor of property shall show all actions taken by the Shelby County Board of Equalization, which change the classification, value or assessment of any property. In keeping with this goal, a file folder will be prepared for each parcel as scheduled to be heard. All pertinent information concerning the appeal of assessment will be maintained in the file. Upon completion of the hearing, a decision letter will be attached to the file and folder and forwarded to the Assessor’s Bookkeeping Department, via the Assessor’s Appeal Department, for final processing and record storage.

The board shall keep a daily record of its transactions and sign the same.

Proceedings by Board against Assessors (TCA 67-5-1415)

When it is known to, or reasonably suspected by, any one of the members of the SCBOE that any Assessor of Property or Deputy Assessor has knowingly or willfully classified, valued or assessed any property in violation of the requirements of law, to report the same to the district attorney general or proper officer of the state, whose duty it shall be, upon receiving such information, to institute proceeding against the Assessor upon the Assessor’s bond to recover the penalty prescribed in TCA 67-5-306.

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Notification to State Of Board Actions (TCA 67-5-1413)

After the SCBOE adjourns, it is the duty of the Assessor of Property to promptly report, via registered mail each and every change made in the assessment by the SCBOE to the Tennessee State Board of Equalization. Forms are furnished by the state to the Assessor for that purpose. This report will show the increase or decrease made in each assessment and the reason or reasons for the changes.

Finality of Board Decisions and Notice (TCA 67-5-1411)

Determinations of the SCBOE shall be final except in so far as the Tennessee State Board of Equalization may revise the same.

The SCBOE shall give notice of its final decision and the procedure of appeal to the State Board of Equalization.

Data Sharing Agreement

The Board will enter into a data sharing agreement with the Shelby County Assessor's Office.

All Administrative Duties of the Board including case scheduling and rescheduling, shall be the responsibility of the SCBOE Administrative Director.