



PRACTICE MANUAL
for
County Boards of Equalization

Approved by
State Board of Equalization

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PURPOSE OF PRACTICE MANUAL FOR TENNESSEE COUNTY BOARDS OF EQUALIZATION

The purpose of this practice manual is to serve as a practical guide for the persons who have generously chosen to serve on the county boards of equalization to ensure that the property owners in all of the counties in Tennessee have access to a fair hearing on their property tax concerns. The manual is intended to address the laws, process, function, and proceedings of the county boards of equalization in Tennessee. The information provided in this manual will, hopefully, prove helpful to the board members in the execution of the board's duties. For the convenience of the user, where applicable, the legal citation is provided in the text of the manual.

It is anticipated that the manual can be useful to county board members, county and city officials, taxpayers, and persons with a general interest in the process.

IMPORTANT DATES OF THE YEAR RELATED TO PROPERTY TAXES AND ASSESSMENTS

January 1st	Point-of-reference date for determining the assessment status of property for ownership, value, and use [<i>Tenn. Code Ann. § 67-5-502 and § 67-5-504</i>] Lien date for property taxes [<i>Tenn. Code Ann. § 67-5-2101</i>] <i>Exception:</i> Exemptions [<i>Tenn. Code Ann. § 67-5-212</i>] <i>Exception:</i> Damaged or Destroyed Structures [<i>Tenn. Code Ann. § 67-5-603</i>]
February 1st	Date assessor supplies businesses the forms to report tangible personal property [<i>Tenn. Code Ann. § 67-5-903</i>]
March 1st	Deadline to return tangible personal property reporting form [<i>Tenn. Code Ann. § 67-5-903</i>] Deadline for filing of first-time greenbelt applications [<i>Tenn. Code Ann. § 67-5-1005 (a)(1); Tenn. Code Ann. § 67-5-1006 (a)(1); Tenn. Code Ann. § 67-5-1007 (b)(1)</i>]
April 1st	Deadline for public utilities to file reporting forms [<i>Tenn. Code Ann. § 67-5-1303</i>]
May 20th	Deadline for county assessor to complete annual assessment roll [<i>Tenn. Code Ann. § 67-5-504 (b) and § 67-5-508</i>] Deadline for property tax exemption application to State Board of Equalization [<i>Tenn. Code Ann. § 67-5-212 (b)(3)(A)</i>]
June 1st	***County Board of Equalization convenes its annual session*** [<i>Tenn. Code Ann. § 67-1-404 (a)</i>]
1st Monday in July	Date the county commission sets the annual county tax rate [<i>Tenn. Code Ann. § 67-5-510</i>]

**August 1st
(or within 45 days
of the date of the
county board notice,
whichever is later)**

Deadline to file appeals to the State Board of Equalization from decisions of the county boards of equalization, unless notice was given later than ten (10) days before the adjournment of the county board or not given at all [*Tenn. Code Ann. § 67-5-1412 (e)*]

August 1st

Deadline to file a direct appeal for industrial and commercial real and tangible personal property to the State Board of Equalization [*Tenn. Code Ann. § 67-5-1412 (b) (2)*]

**On/before the 1st
Monday in August**

Date the Office of State Assessed Properties (OSAP) in the Comptroller's office completes assessments of public utilities [*Tenn. Code Ann. § 67-5-1327*]

**On/before the 1st
Monday in October**

Date assessor transmits tax roll to county trustees and city collectors [*Tenn. Code Ann. § 67-5-807*]

Date taxes are due, and notices sent [*Tenn. Code Ann. § 67-5-1409*]

GENERAL INFORMATION ABOUT ASSESSMENTS

Article II, Section 28 of the Tennessee Constitution states that “all property is subject to taxation”, unless deemed an exception by the Tennessee Legislature. The county assessor takes an oath of office to “appraise, classify, and assess all taxable property of the county...” [*Tenn. Code Ann. § 67-1-507*]. Property is classified by the county assessor according to use and is assessed as follows:

Real Property (except real property held for use or vacant and unused real property)
[*Tenn. Code Ann. § 67-5-801*]

- | | | |
|----|---------------------------|--------------|
| 1) | Residential | 25% of value |
| 2) | Farm | 25% of value |
| 3) | Commercial and Industrial | 40% of value |
| 4) | Public Utilities | 55% of value |

Tangible Personal Property [*Tenn. Code Ann. § 67-5-901*]

- | | | |
|----|---------------------------|-----------------------------------|
| 1) | Public Utilities | 55% of value of personal property |
| 2) | Commercial and Industrial | 30% of value of personal property |

County assessors conduct county reappraisals on either a 6-year, 5-year, or 4-year cycle, as determined by the State Board of Equalization. Assessors conduct field reviews of portions of the counties each year. Some value changes may be made by the assessor between specified reappraisal cycles; however, property appraisals generally remain constant during that interim period. [*Tenn. Code Ann. § 67-5-1601*]

WHAT DOES “EQUALIZATION” MEAN?

“Equalization” is the process by which an appropriate governmental body, in this case, the county board of equalization, attempts to ensure that all properties in a jurisdiction have been assessed fairly by appraising the properties at fair market value, including the application of the correct assessment percentage based on classification, as required by law.

PRIMARY LEVELS OF APPEALS FOR PROPERTY TAX ISSUES

- 1) County Board of Equalization
- 2) State Board of Equalization
 - a. Administrative Judge
 - b. Assessment Appeals Commission
 - c. Full State Board of Equalization
- 3) Chancery Court

COUNTY BOARD OF EQUALIZATION AND ITS PURPOSE (CBOE) [TENN. CODE ANN. § 67-1-401]

Many counties have established an informal process where a taxpayer can make an appointment with the property assessor’s office to discuss property tax concerns. However, the first level of appeal regarding property tax concerns, e.g., the fairness of property tax assessment, valuation, and classification issues, is the county board of equalization. A county board of equalization is a panel of persons elected or appointed by the legislative or governing body of each county and the governing bodies of the cities and towns making up each county.

The party appearing before the county board may be a homeowner who is filing an appeal for the first time or an agent who has years of experience filing appeals. In addition to its stated duties, a major goal of the county board of equalization should be to make persons appearing before the board feel that they have had their “day in court” and that they have been treated with fairness and respect.

FORMATION AND MAKEUP OF THE COUNTY BOARDS OF EQUALIZATION [TENN. CODE ANN. § 67-1-401]

The election or appointment of members to the county board of equalization is done in April of years ending in even numbers. The county legislative or governing body shall elect five (5) freeholders and taxpayers to constitute a county board of equalization for a period of two (2) years. If the county legislative body fails to elect/appoint the members to the county board, the county mayor shall do so and fill vacancies on the board as necessary.

In counties with a population greater than 900,000, the county board of equalization will consist of thirteen (13) freeholders and taxpayers, with three (3) of the members appointed by the county commission/governing board; four (4) of the members appointed by the city council/governing board of largest municipality; and one (1) member each being appointed by the six (6) largest remaining cities with a population greater than 10,000 (according to 2010 or subsequent federal census).

In counties with one or more cities with a population greater than 60,000 (according to the 1970 or subsequent federal census), two (2) of the members of the county board shall be appointed by the governing body of the largest city.

In counties with one or more cities with a population between 10,000 and 60,000, one (1) member shall be appointed by the city council or governing body of **each** of the two (2) largest cities within the county.

In counties where no city has a population greater than 10,000, one (1) member shall be appointed by the city council or governing body of the largest city or town within the county.

ALTERNATES TO SERVE ON COUNTY BOARD OF EQUALIZATION [TENN. CODE ANN. § 67-1-401]

The county legislative or governing body may also designate one (1) or more alternates to serve if a regular member is unable to serve for any reason. Alternates are sworn in the same manner as regular members and their actions are as effective as the regular members. If the county legislative body fails to elect/appoint the members to the county board, the county mayor shall do so and fill vacancies on the board as necessary.

METROPOLITAN BOARD OF EQUALIZATION [TENN. CODE ANN. § 67-1-401 (a)(5)(A)]

The charter of a metropolitan form of government in a county may provide for the creation of a metropolitan board of equalization consisting of either five (5) or seven (7) members. An example of a metropolitan board of equalization is Metropolitan Board of Equalization of Nashville-Davidson County. The appointments are required to “include members selected from minorities, as well as members of the sex that historically has been under-represented on the board of equalization”. The subdivision does not apply to counties that have a population of less than 10,000 persons according to the 1980 or subsequent federal census reports.

If a county with a metropolitan form of government has a population between 470,000 and 500,000 according to the 1980 or subsequent federal census reports and creates a board of equalization comprised of seven (7) members, at least two (2) of those members must be “selected from minorities, as well as members of the sex that historically has been under-represented on the board of equalization”.

COUNTY BOARD OFFICERS, QUORUM, & RECORDS [TENN. CODE ANN. § 67-1-403]

Each county board must elect one member as the chairperson and one member as the secretary of the board.

A majority of the board constitutes a quorum sufficient to transact the business of the county board of equalization. The county board shall keep a daily record of its transactions and sign the record. The signed records are kept by the county assessor.

COMPENSATION [TENN. CODE ANN. § 67-1-403]

The county legislative or governing body must adopt a resolution to determine the required compensation to be paid to the members and the chairperson of the county board of equalization.

**GOVERNMENT OFFICIALS AND EMPLOYEES AS MEMBERS OF COUNTY BOARDS OF EQUALIZATION
[TENN. CODE ANN. § 67-1-401]**

In general, “magistrates or state, municipal or county legislative or executive officials or employees” cannot serve on a county board of equalization. The exception would be if, in their government capacity, these persons “receive only compensation in lieu of expenses or a per diem payment for services”. This rule does not apply to municipal officials or employees whose city is located in a county with a population exceeding 800,000 (according to the 1990 or subsequent census reports) and is not eligible to appoint a member to a county board of equalization.

In counties where the county population exceeds 800,000, state employees cannot be appointed to the county board under any circumstances. However, with the exception of counties showing a population between 85,000 and 86,000 (according to the 1990 or subsequent census reports), state employees may be appointed to a county board of equalization “if their employment responsibilities do not include property assessments”. If a state employee does serve, the employee cannot be compensated for the time served on the county board. The employee must use accumulated annual leave with the approval of the employee’s supervisor.

COUNTY BOARD OF EQUALIZATION OATH OF OFFICE [TENN. CODE ANN. § 67-1-402]

Before discharging duties of the office as a member of the county board of equalization, each member of the county board of equalization, as well as each alternate member, shall take the oath before the county mayor or other official authorized by law to administer oaths. It is unlawful for a member or alternate to undertake the duties of the county board without first taking the oath.

Each member or alternate will also sign the oath, with copies being filed with the county clerk. Upon request of the State Board of Equalization, the county clerk will make certified copies of the signed oaths and forward them to the State Board of Equalization.

The oath to be administered and signed is as follows:

“State of Tennessee, _____ County.

I, _____, member of the board of equalization of such county do hereby solemnly swear (or affirm) that I will carefully examine, compare and equalize the assessments of such county in accordance with the constitution and the laws of the state of Tennessee; and that to the best of my knowledge and ability I will faithfully, honestly and impartially perform all duties imposed upon me as a member of the board by the laws of the state of Tennessee.

Signed _____
Board member

Sworn to before me, this the _____ day of _____, _____.”

MANDATORY TRAINING FOR COUNTY BOARD MEMBERS [TENN. CODE ANN. § 67-1-403]

In addition to the oath of office, county board members must agree to complete annual training as a condition of their appointment. The county mayor must require all county board members and county board hearing officers to complete annual continuing education and training on the duties and responsibilities of their office. The training and continuing education must include county board governance, open meetings requirements, and other topics that relate to the administration of the duties of the members of the county board.

The county legislative body must adopt a resolution establishing that an annual minimum of four (4) hours of education and training be completed by the board members, alternates, and appointed hearing officers. The resolution must also establish minimum recordkeeping requirements related to certificates of the attendance of the members, alternates, and appointed hearing officers.

The mandatory annual continuing education and training is only required to the extent that such training is provided by the Comptroller of the Treasury free of charge. Any organization or association with sufficient knowledge of the subject matter may submit a training and continuing education curriculum to the Comptroller of the Treasury for review and approval for presentation to the county boards of equalization.

NOTICE IN NEWSPAPER OF COUNTY BOARD SESSION AND PUBLIC VIEWING OF ASSESSMENT ROLLS [TENN. CODE ANN. § 67-5-508]

At least ten (10) days before the start of the annual session of the county board of equalization, the county assessor's office is required to publish a notice of the following in a "newspaper of general circulation within the assessor's jurisdiction":

- 1) The dates and times that the assessment records may be viewed by the public
- 2) The date the county board of equalization session will begin
- 3) The last day the county board will accept appeals
- 4) A warning that failure to appeal the assessment to the county board may result in the assessment becoming final without having a further right to appeal

Most county assessors also include a telephone number for taxpayers to call to make appointments to be heard by the county board of equalization.

[Note: Tennessee law requires that the notice in the newspaper is published at least once. Many assessors publish the notice at least twice.]

NOTICE TO TAXPAYER OF CHANGES IN CLASSIFICATION OR ASSESSMENT VALUES [TENN. CODE ANN. § 67-5-508]

At least ten (10) days before the start of the annual session of the county board of equalization, the county assessor must "notify, or cause to be notified", a taxpayer of any change in the classification or assessed value of the taxpayer's property. The notice must be sent to the last known address of the taxpayer via U.S. mail. The notice shall be effective on the date it is mailed.

In addition to the current year’s assessment and classification, the notice must also show the previous year’s assessment and classification.

The county assessor must keep a notation of the date of the notice or a dated copy of the notice in the assessor’s records for at least two (2) years.

DURATION OF ANNUAL COUNTY BOARD SESSIONS [TENN. CODE ANN. § 67-1-404]

In general, the county board of equalization shall convene its regular session on June 1st of each year and remain in session as necessary to complete the board’s business for the maximum number of days allowed under *Tenn. Code Ann.* § 67-1-404. An exception would be the Shelby County Board of Equalization which, due to the huge volume of appeals, usually has a longer county board session period. However, most counties follow the timeframes set out in the statute that are based on population of the county (according to 1970 or subsequent federal census reports). The general timeframes are as follows:

<u>Population</u>	<u>Duration</u>
10,000 or less	6 days
Over 10,000, less than 20,000	10 days
Over 20,000 less than 35,000	15 days
Over 35,000	No more than 30 days (as determined by county legislative body)

Exceptions:

- 1) The county legislative body may adopt a resolution or ordinance to establish an earlier date to begin the board’s initial meeting for counties that have a population range of 26,000 to 26,100 (according to 1970 or subsequent federal census reports).
- 2) If for some reason the county legislative body cannot act, the county mayor may extend the time or may call the county board into a special session at any time, if the county mayor determines the public welfare requires such action.
- 3) If a municipality has a beginning tax due date different from that of the county, the county board that has jurisdiction over that municipality shall meet as required by the county legislative body at least one month prior to the applicable beginning tax due date.

DUTIES OF THE COUNTY BOARD OF EQUALIZATION [TENN. CODE ANN. § 67-5-1402]

Tennessee law requires the county boards of equalization to perform the following duties:

- Hear complaints or appeals from taxpayers
- Carefully examine, 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 assessments 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 conform to the laws of the state, along with the rules and regulations of the State Board of Equalization

DUTY OF COUNTY BOARD OF EQUALIZATION REGARDING PROCEEDINGS AGAINST COUNTY ASSESSOR [TENN. CODE ANN. § 67-5-1415]

In addition to its regular duties, the county board of equalization also has the duty to report the action of a county assessor “when it is known or reasonably suspected by any one (1) of them 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”. The district attorney or proper state authority, upon receipt of the report from the county board, has the duty to initiate proceedings against the county assessor.

POWERS OF THE COUNTY BOARD OF EQUALIZATION [TENN. CODE ANN. § 67-5-1404]

The county board of equalization has the following powers:

- Examine any person as a witness
- Hear any proof that may be offered by any taxpayer regarding the classification, value or assessment of any property on the assessment roll
- Send for persons and documents that are deemed relevant to the hearing
- Enforce the attendance of witnesses
- Obtain any evidence or information deemed relevant in the performance of the duties of the county board
- Administer an oath, under which a person may be found to have committed an indictable offense of perjury if determined to have “willfully or corruptly” falsely sworn to any material facts
- Examine and question the county assessor and deputy assessor about the resulting classification, value and assessment of property [**Tenn. Code Ann. § 67-5-1405**]
- Authority to appoint one (1) or more hearing officers, with approval by a simple majority vote of the county commission on resolution [**Tenn. Code Ann. § 67-5-1406**]

THINGS THE COUNTY BOARD OF EQUALIZATION CANNOT DO

- Accept Greenbelt applications
- Determine property tax exemptions (other than governmental exemptions)
- Review assessments related to prior tax years

COUNTY ASSESSOR'S ROLE AT COUNTY BOARD OF EQUALIZATION [TENN. CODE ANN. § 67-5-1403]

It is the duty of the county assessor or deputy assessor to do the following:

- 1) Meet with the county board of equalization on the first day of the board's session
- 2) Sit with the board in an advisory capacity during each day of the session of the board
- 3) Render assistance as necessary in the board's performance of its official duties in equalizing assessments
- 4) Make recommendations to the county board, as warranted, regarding changes of assessment or classification from the values in the report certified by the assessor to the county board, but such recommendations cannot be so numerous as to rise to the level of a general reappraisal of a class or type of property
- 5) Upon examination by the county board, answer any questions about the methodology used by the assessor or deputy assessor in determining the classification, value, or assessment of the property and any other questions deemed relevant by the board

COUNTY ASSESSOR'S CERTIFICATION TO COUNTY BOARD OF EQUALIZATION [TENN. CODE ANN. § 67-5-304]

On or before the first day of the county board session, the county assessor must make a report of his assessments and make all of the assessment records available to the county board of equalization.

When making this report to the county board of equalization, the county assessor must also include the following oath that was taken by the assessor in the presence of the county mayor or in the presence of a notary public, if the county mayor is not available:

The oath to be administered is as follows:

"I, _____, assessor of the county (city) of _____, State of Tennessee, do solemnly swear (or affirm) that I have assessed all taxable property, in the county (city) of _____, as far as ascertainable, to the true owners thereof, and that I have determined the classification and assessed valuation of all taxable property as prescribed by law; and that I have faithfully discharged all my duties without fear, favor, or affection to the best of my knowledge and ability, so help me God."

ROLE OF HEARING OFFICERS AT COUNTY BOARD OF EQUALIZATION [TENN. CODE ANN. § 67-5-1406]

- 1) If county board of equalization exercises its authority to appoint a hearing officer, the hearing officer would conduct preliminary hearings and make investigations regarding complaints before the board.
- 2) Hearing officer will prepare findings of fact and conclusions and make the recommendation to the county board. This recommendation may be adopted by the county board as its final decision as long as property owners wishing to be heard directly by the county board are given the right to do so.

Some counties have adopted an ethics policy and oath for any hearing officer appointed by their county boards.

INFORMAL DISCUSSIONS WITH ASSESSOR

In an effort to decrease the volume of complaints or appeals that are officially filed, many county assessors have created a process where taxpayers or their representatives may informally meet with county assessors to discuss property tax concerns. Such informal reviews have often greatly reduced the number of appeals made to the county board.

Some county assessors post information about the informal review process on their websites. Some counties, like Shelby and Davidson, allow taxpayers to request an informal review online. Taxpayers are provided the deadlines for filing requests for informal reviews. The parties are given ample notice of the result of the informal review so that, if not satisfied, a complaint or appeal can be made to the county board of equalization.

If there is a dispute with the result of the informal review, the taxpayer is made aware of the rights to appeal. If the county board of equalization has exercised its authority to appoint a hearing officer, the taxpayer may be given the option of being heard by the hearing officer prior to having a hearing before the full county board of equalization.

COMPLAINTS OR APPEALS [TENN. CODE ANN. § 67-5-1407]

In very rare instances, a county board of equalization has exercised its authority to review and change assessments on its own after giving notice to taxpayers whose assessments are increased. However, most of the business before the county board is the result of an appeal or complaint about the determination by the county assessor regarding assessment, valuation, or classification.

Under Tennessee law, the following have the right to appeal or make a complaint to, and personally appear before, the county board of equalization:

- 1) Any owner of property or taxpayer liable for taxation in the state
- 2) Lessees responsible for property taxes
- 3) An agent with written consent or authorization by the property owner or taxpayer
- 4) Attorneys

The person filing the complaint or appeal is considered the “complainant” or “appellant”. A personal appearance by the party is generally required; however, in the discretion of the county board of equalization, “all or part of the hearing may be conducted by telephone, television, software or electronic means if each participant in the hearing has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceedings while taking place”.

The complaint or appeal filed before the county board of equalization must be based on one (1) or more of the following grounds:

- 1) Erroneous classification or sub-classification of the property
- 2) Excessive valuation of the property under appeal

3) Undervaluation of property other than property under appeal

Any local governmental entity also has the right to appeal or complain to the county assessor and the county board of equalization of the following grounds:

- 1) Erroneous classification or sub-classification of the property
- 2) Property not included on the assessment (tax) roll
- 3) Property has been under-assessed with the local governmental entity

When a county board receives a complaint by a local governmental entity, the county board gives the property owner at least five (5) days' notice of the hearing to be held before the board. The notice will be sent by U.S. mail to the last known address for the property owner.

METHOD OF FILING THE COMPLAINT OR APPEAL

The form of the complaint itself may vary from county to county. For example, in Shelby County, appeal forms can be filed online, by mail, or in person using specific forms for real and personal property adopted by the Shelby County Board of Equalization. Those wishing to file appeals or complaints should check with the local county assessors about the method to file a complaint or appeal in a specific county.

Many assessors include a telephone number in the newspaper notice of the county board of equalization sessions for taxpayers to make appointments for their cases to be heard by the board.

The Office of the Tennessee Attorney General has issued an Opinion that “an owner of property appearing in person before a county board of equalization can make an oral complaint that the property of another property owner has been assessed on the basis of appraised values which are less than the basis of the value provided for by the statute utilizing the county tax tolls present in the meeting as evidence without making the complaint in writing....” [See Op. Tenn. Atty. Gen., January 19, 1984].

TIMELY FILING OF COMPLAINT APPEAL AND EFFECT OF UNTIMELY FILING [TENN. CODE ANN. § 67-5-1401]

If a taxpayer does not appear before the county board of equalization prior to its final adjournment, the assessment for the property as determined by the county assessor becomes conclusive against the taxpayer and the taxpayer shall be required to pay the taxes.

In one case, **Jerry R. Caruthers and David Hollingsworth** (Final Decision and Order, AAC, June 29, 1995), it was held that the county boards of equalization are not obligated to hear appeals filed during special sessions of the board.

OPEN MEETINGS [TENN. CODE ANN. § 8-44-101 ET SEQ.]

County Board of Equalization meetings and hearings are subject to the Tennessee Open Meetings Act (a.k.a. “The Sunshine Law”). Therefore, there must be adequate public notice and the opportunity for the public to view any meetings, hearings, or deliberations of the county board. It is suggested good practice to hold deliberations immediately after the hearing while the information is still fresh in the minds of the members and there is not a risk of inadvertently discussing the case in violation of the open meetings requirement.

BURDEN OF PROOF AT THE COUNTY BOARD OF EQUALIZATION

This is a subject matter that has been the source of some confusion and sensitivity in the past. In performing their duties, the members of the county boards of equalization may find themselves in the position of reviewing the property of people, or coming in contact with local officials, with whom they regularly interact for business or social reasons. As a result, county board members may occasionally feel some level of pressure in the decision-making process or to render a decision without sufficient evidence. Therefore, it is important to point out that, although the hearing before the county board is generally informal, there is still a burden of proof that must be met.

Since the general presumption is that the position of the county assessor is correct, **the burden of proof is on the party filing the complaint or appeal.** The party filing the appeal must show, through sufficient evidence or proof, that the conclusion reached by the county assessor regarding the property is in error.



As illustrated in the image to the left, this essentially means that the county assessor is already presumed to be correct at the outset of the proceedings, and the burden is on the appealing party to change the status quo.

The burden of proof for the party appealing is not overly high. Criminal proceedings require proof “beyond a reasonable doubt”. For county board of equalization purposes, the burden is simply “more likely than not” or by a “preponderance of the evidence”. The taxpayer must present some evidence or proof to support his or her argument that the conclusion of the county assessor

is incorrect. Insufficient evidence is not enough to tip the scales in the appealing party’s favor.

As illustrated here, there may be times when the appealing party has presented substantial evidence, but not enough evidence to support a total finding in his or her favor. When the evidence of both sides seems pretty balanced, the county board of equalization may determine a value or classification different from the value or classification being proposed by either the appealing party or the county assessor.



As reflected in the certification statement that will be addressed later, each member of the county board must discharge the board's duties "without fear, favor, or affection". Therefore, the board must base its decision on the facts before it. The county board of equalization is not required to lower values. Based on the facts, the board may choose to do one of the following:

- 1) Agree with the county assessor, if taxpayer does not meet the required burden of proof
- 2) Agree with the taxpayer, if taxpayer has met the required burden of proof
- 3) Determine a different value or classification, if the evidence warrants such action

EVIDENCE AND WEIGHT GIVEN

The following are the types of evidence that parties filing appeals or complaints can present in an effort to meet the required burden of proof:

Real Property

- 1) Comparable sales documents
- 2) Recent photographs of the property
- 3) Insurance replacement value
- 4) Any appraisal of the property
- 5) Architectural plans
- 6) Costs to build
- 7) Cost to cure any physical or functional problem
- 8) Real estate listing
- 9) Deeds reflecting easements that may impact property value
- 10) Rent rolls and expense statements for commercial and income-producing properties
- 11) Errors in description of physical characteristics of the property

Personal Property (as used by the Shelby County Board of Equalization)

- 1) Personal property schedule
- 2) Photographs of the personal property
- 3) List of assets used in the business
- 4) Balance sheet
- 5) Purchase agreement for assets

The above are items that can provide a basis for the county board members to reach a fair and justified conclusion. To facilitate a smoother hearing process, the party filing the appeal is encouraged to make enough copies of the evidence for each member of the county board.

If comparable sales are submitted, the sales data must be for sales completed prior to January 1st of the tax year in question. Sales that took place after January 1st may be offered by the taxpayer as evidence but cannot be given any weight for consideration by the county board.

During the hearing, the members of the county board should also look for the following:

- 1) Functional issues with the structure
- 2) Physical depreciation beyond the norm

- 3) Economic obsolescence from an external source
- 4) Clerical or listing errors
- 5) Inconsistencies in pricing

As mentioned, the county assessor sits with the county board of equalization during its session. The members of the board may exercise its authority to consult with or question the assessor.

ORDER OF PROCEEDINGS

Although all hearings before the county board of equalization are generally informal in nature, the order of proceedings can vary by county.

After the county board has publicized the dates and location of the county board hearings, there is often a large volume of complaints or appeals filed to the county board, which means a large number of persons wishing to be heard. This is especially true for reappraisal tax years. The hearings are normally scheduled by appointments made by the taxpayers after the county assessor publishes the county board hearing session notices in the newspaper. Persons who do not make an appointment are made aware that cases with appointments are given priority. However, those without appointments are usually worked into the schedule. It appears to be rare that taxpayers do not make appointments.

Due to the volume, county boards of equalization have often established some reasonable rules to ensure an efficient process for all involved. This may include having attendees sign a “sign-in” sheet and identifying those persons who wish to be heard at the hearing. Some counties request the party filing the appeal to arrive early in order to complete a specific form related to the property that is the subject of the appeal. For example, in Davidson County, appellants must complete a “blue form” that is used to give their opinion of value/classification; explain why the conclusion reached by the county assessor is in error; and to attach documents they deem relevant to their case.

As previously mentioned, the nature of the hearing before the county board of equalization is informal. However, there are some formalities, e.g., the hearing is called to order; witnesses are sworn in; and the parties are given an opportunity to present evidence. The board conducts **open** deliberations. The appellant does not get anything in writing on the day of the hearing. The board sends a written notice to appellant stating the findings of the board and further appeal rights.

The following is an example of the general order of proceedings at a county board hearing; however, a county board may adopt a procedure that better suits its particular needs.

Call to Order

- 1) **Chairperson or vice-chair calls the meeting to order.**
Note: In some counties, the members of the board are introduced, and an overview of the proceeding is provided. In other counties, the board members have name plates at the hearing table.
- 2) **Chairperson explains the nature of the appeal about to be heard.**
- 3) **Chairperson swears in any persons that may possibly offer testimony during the hearing, including the taxpayer, county assessor, and taxpayer representative.**



Hearing of Evidence

Taxpayer/Appellant Proof	Assessor of Property Proof
4) The party filing the appeal is asked to explain their position and told to proceed with their case, including presenting any evidence they wish to provide.	5) At the conclusion of the taxpayer's presentation, the assessor presents its findings.

The members of the board may ask questions of either party and the parties may ask questions of each other.

Deliberations & Decision

- 6) Once the panel moves into deliberations, **no further evidence or comments can be made by the parties at this point.**
- 7) Chairperson asks if any member wishes to make a motion. Motion is eventually made and seconded.
- 8) Once the county board has deliberated and rendered its decision, the secretary or other designated person makes written notation of:
 - The decision;
 - who made and seconded the motions; and
 - how each member voted.

DURATION OF A TAXPAYER’S HEARING BEFORE THE COUNTY BOARD OF EQUALIZATION

The time allotted for a taxpayer’s hearing before the county board varies. Based on the volume of cases to be heard, it appears the average hearing time allotted by most counties is fifteen (15) minutes. This includes presentations by both parties and deliberations by the county board. Some cases involving agents and multiple properties can last about forty-five (45) minutes.

In some smaller counties, more time may be allotted for the taxpayer’s hearing. Depending on the volume of cases to be heard, some counties allow two (2) hours for a hearing.

RECORDING OF THE HEARING

Some counties have a sophisticated system of recording the hearings. In other counties, the county assessor makes an audio recording of the hearing. In remaining counties, the notes or minutes made by the secretary of the county board serve as the record of the hearing.

CHANGES MADE BY THE COUNTY BOARD OF EQUALIZATION [TENN. CODE ANN. § 67-5-1408]

The county board of equalization, in its best judgment, and based on the evidence presented, may decide to make changes in the classifications or sub-classifications or to increase or decrease the assessments or appraised values. If there is an increase of assessment or a change in classification, the county board must notify the property owner at least five (5) days before the adjournment of the board’s session so that the taxpayer can be given an opportunity to be heard. In addition to the specifics of the change, the notice must also include the tax year for which the change is made.

TIME FOR COMPLETION OF ACTION BY THE COUNTY BOARD OF EQUALIZATION [TENN. CODE ANN. § 67-5-1409]

For any action made by the county board during its regular session, the notice of decision and appeal procedure should be sent to the property owner no later than five (5) days prior to the date property taxes are due. For county taxes, the tax due date is the first Monday of October of a tax year. This deadline does not apply during a reappraisal year or to special sessions of the county board.

For special sessions in a county with a population greater than 890,000 (according to the 2000 or subsequent federal census), the county board of equalization can generally only act on an assessment for which there is an active and timely-filed appeal.

NOTICE OF FINAL ACTION OF COUNTY BOARD OF EQUALIZATION [TENN. CODE ANN. § 67-5-1411]

Unless revised or changed by the State Board of Equalization on appeal, the determination made by the county board of equalization becomes final. Every property owner heard by the county board must receive a notice of the board’s final decision and information regarding the appeal rights.

Although many counties have a notice form utilized by their county boards, all notices must include the following:

- 1) The taxpayer’s right to electronically file an appeal to the State Board of Equalization, including a link to the online appeal form;
- 2) The current address of the state board of equalization as indicated on its website;
- 3) All relevant statutory deadlines; and
- 4) Any other information required by the state board of equalization

CERTIFICATION OF ASSESSMENTS BY THE COUNTY BOARD OF EQUALIZATION
[TENN. CODE ANN. § 67-5-1410]

Upon completion of its duties, the county board must have a certificate of completion prepared. This certificate is signed by each member of the county board and is filed in the office of the county clerk. The statute shows the certificate as follows:

“We, the undersigned members of the board of equalization of _____ County, do hereby certify that we have examined the assessments and classifications 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 _____, _____.”

REPORTS OF COUNTY BOARD ACTIONS REQUIRED TO BE MADE TO STATE BOARD OF EQUALIZATION

Effective March 7, 2018, the legislature repealed *Tenn. Code Ann.* § 67-5-1413, which required the county assessor to submit certain reports to the State Board of Equalization regarding changes in assessments and classifications made by the county board. Although reports of these changes are no longer required to be submitted to the State Board, *Tenn. Code Ann.* § 67-5-1414(a) requires individual property records maintained by the county assessor to reflect any changes in classification, value, or assessment made by the county board.

Pursuant to *Tenn. Code Ann.* § 67-5-304, the county assessor is still required to submit a report to the State Board listing the total of all assessments prepared by the county assessor’s office on forms, and in a manner and time, prescribed by the State Board.

DISPOSITION OF RECORDS AND PAPERS OF THE COUNTY BOARD UPON COMPLETION OF DUTIES
[TENN. CODE ANN. § 67-5-1414]

Upon completion of its duties, the county board of equalization must turn over its records and papers to the county assessor. The assessor must preserve these records for a period of at least ten (10) years. Individual property records must reflect changes made by the county board.

APPEAL FROM COUNTY BOARD DECISION [TENN. CODE ANN. § 67-5-1412 (e)]

Any party that disputes the decision made by the county board of equalization has a right to appeal to the State Board of Equalization. Appeals from county board actions must be filed with the State Board on or before August 1st of the tax year or “within forty-five (45) days of the date notice of the local board action was sent”.

DIRECT APPEALS TO THE STATE BOARD OF EQUALIZATION [TENN. CODE ANN. § 67-5-1412]

A party may appeal directly to the State Board of Equalization under the following circumstances:

- 1) If the assessment or classification change notice was sent later than ten (10) days before the end of the county board session as required by law, the taxpayer may appeal within forty-five (45) days after the notice was sent.
- 2) If the notice was not sent, the party may appeal within forty-five (45) days after the tax billing date for the assessment.
- 3) A party may appeal to get a hearing to show reasonable cause for failing to file an appeal before the county board.
- 4) Although some counties are exempt from this provision, property owners in other counties have the right, with the written permission of the county assessor, to appeal the valuation of commercial and industrial real and tangible personal property directly to the State Board of Equalization by August 1st of the tax year.

CONCLUSION

This practice manual covers a number of topics; however, members of the county board may still have additional questions. The practice manual may prove to be a useful supplement to the information received by the county board members and hearing officers during the required annual training provided by the Comptroller of the Treasury.

If nothing else has been accomplished, it is hoped that it is clear the role played by the county board of equalization is an essential one in providing the citizens of Tennessee the first opportunity to appeal their property taxes.

RESOURCES

Art. II, Section 28 of the Tennessee State Constitution

Tenn. Code Ann. § 8-44-101 et seq.

Tenn. Code Ann. § 67-1-401 et seq.

Tenn. Code Ann. § 67-5-212

Tenn. Code Ann. § 67-5-304

Tenn. Code Ann. § 67-5-502

Tenn. Code Ann. § 67-5-504

Tenn. Code Ann. § 67-5-508

Tenn. Code Ann. § 67-5-510

Tenn. Code Ann. § 67-5-603

Tenn. Code Ann. § 67-5-807

Tenn. Code Ann. § 67-5-901

Tenn. Code Ann. § 67-5-903

Tenn. Code Ann. § 67-5-1005 through *Tenn. Code Ann.* § 67-5-1007

Tenn. Code Ann. § 67-5-1303

Tenn. Code Ann. § 67-5-1327

Tenn. Code Ann. § 67-5-1401 et seq.

Tenn. Code Ann. § 67-5-1601

Tenn. Code Ann. § 67-5-2101

Opinion of the Attorney General (January 19, 1984)

In re: Stewart County Taxpayers – Tax Years 2009 & 2010 (Order Assigning Petitions for Hearing, State Board of Equalization, January 13, 2010)

Website for Shelby County Assessor of Property (<https://www.assessor.shelby.tn.us>)

Website for Shelby County Board of Equalization (<https://www.shelbycountyttn.gov/116/Board-of-Equalization>)

Website for Metro-Davidson County Assessor of Property (<http://www.padctn.org>)

2017 County Board Seminar Materials (prepared by the Tennessee Comptroller of the Treasury's Division of Property Assessments and State Board of Equalization)

Current through 2017 Regular Session (Chapter 493)

67-1-401. Composition of boards.

(a) The county legislative body of each county shall, at the April session of each even year, from the different sections of the county, elect, for a term of two (2) years, five (5) freeholders and taxpayers who shall constitute a county board of equalization.

(1) In any county having a population greater than nine hundred thousand (900,000), according to the 2010 federal census or any subsequent federal census, the county board of equalization shall be appointed for a term of two (2) years, consisting of thirteen (13) freeholders and taxpayers, of which three (3) members shall be appointed by the county commission or governing board, four (4) members shall be appointed by the city council or governing board of the largest municipality, and one (1) member each shall be appointed by the city councils or governing boards of each of the six (6) largest remaining cities having a population greater than ten thousand (10,000).

(2) In counties having one (1) or more cities with a population exceeding sixty thousand (60,000), according to the federal census of 1970 or any subsequent federal census, two (2) of the members of the board shall be appointed by the governing body of the largest city.

(3) In counties having one (1) or more cities with a population of not less than ten thousand (10,000) nor more than sixty thousand (60,000), one (1) member of the board shall be appointed by the city council or governing body of each of the two (2) largest cities with a population in excess of ten thousand (10,000), within the county.

(4) In counties that have no city with a population of ten thousand (10,000) or more, one (1) member of the board shall be appointed by the city council or governing board of the largest city or town in the counties.

(5)(A) In a county with a metropolitan form of government, the charter for the metropolitan government may provide for the creation of a metropolitan board of equalization consisting of either five (5) or seven (7) members. Appointments to such board shall include members selected from minorities, as well as members of the sex that historically has been under-represented on the board of equalization. This subdivision (a)(5)(A) shall not apply to such counties having a population of less than ten thousand (10,000), according to the 1980 federal census or any subsequent federal census.

(B) If a county with a metropolitan form of government having a population of not less than four hundred seventy thousand (470,000) nor more than five hundred thousand (500,000), according to the 1980 federal census or any subsequent federal census, creates a board of equalization consisting of seven (7) members, at least two (2) of the members of the board shall be appointed consistent with subdivision (a)(5)(A).

(b) If the county legislative body fails to elect, the county mayor shall appoint the members of the board and shall also fill such vacancies as the vacancies occur.

(c)(1) Magistrates or state, municipal or county legislative or executive officials or employees shall all be ineligible for positions on a county board of equalization, but this prohibition does not apply to persons who receive only compensation in lieu of expenses or a per diem payment for services. No member of any county board of equalization shall represent any taxpayer in an assessment appeal. This subsection (c) does not apply to municipal officials or employees whose city, located in a county with a population of eight hundred thousand (800,000) or more, according to the 1990 federal census or any subsequent federal census, is not eligible to appoint a member to the board.

(2)(A) Notwithstanding other provisions of this subsection (c), except in counties having a population of more than eighty-five thousand (85,000) but less than eighty-six thousand (86,000), according to the 1990 federal census or any subsequent federal census, state employees may be appointed to the county board of equalization, if their employment responsibilities do not include property assessments, except that in counties having a population of more than eight hundred thousand (800,000), according to the 1990 federal census or any subsequent federal census, state employees shall not be appointed to the county board of equalization.

(B) No state employee serving on the county board of equalization shall be compensated by the state for time served on the county board, except that an otherwise eligible employee may use accumulated annual leave to serve on the county board with approval of the employee's supervisor.

(d) In addition to its regular appointments under this section, an appointing authority may designate one (1) or more alternates, and the board of equalization chair may call upon an alternate to sit for a regular member who becomes unavailable for a particular hearing due to disqualification or other reason. A duly appointed alternate shall be sworn in the same manner as regular members, and any action taken by a duly appointed alternate shall be as effective as if taken by the unavailable individual.

HISTORY

Acts 1973, ch. 226, § 2; impl. am. Acts 1978, ch. 934, §§ 7, 16, 36; Acts 1982, ch. 832, § 1; TCA, § 67-251; Acts 1985, ch. 115, § 1; 1988, ch. 793, § 1; 1991, ch. 419, § 1; 1992, ch. 866, § 1; 1997, ch. 419, § 1; 2000, ch. 957, §§ 1, 2; 2003, ch. 90, § 2; 2003, ch. 363, § 1; 2006, ch. 734, § 1; 2013, ch. 209, §§ 1, 2; 2017, ch. 231, § 1.

TENN. CODE ANN. § 67-1-402

Current through 2017 Regular Session (Chapter 493)

67-1-402. Oath of members.

(a) Each member of the county board of equalization, before entering upon the discharge of the duties of office, shall, before the county mayor or other official authorized by law to administer oaths, take and subscribe to the following oath, to be filed with the county clerk, viz:

“State of Tennessee, _____ County.

I, _____, member of the board of equalization of such county do hereby solemnly swear (or affirm) that I will carefully examine, compare and equalize the assessments of such county in accordance with the constitution and the laws of the state of Tennessee; and that to the best of my knowledge and ability I will faithfully, honestly and impartially perform all duties imposed upon me as a member of the board by the laws of the state of Tennessee.

Signed _____
Board member

Sworn to before me, this the _____ day of _____, _____.”

(b) On request of the state board of equalization, the county clerk shall make certified copies of such oaths and forward the copies to the state board of equalization. It is unlawful for any member of a county board to enter upon or undertake to discharge the duties of office without first taking, before entering upon the duties of office, the oath provided in subsection (a).

HISTORY

Acts 1973, ch. 226, § 2; impl. am. Acts 1978, ch. 934, §§ 16, 22, 36; TCA, § 67-252; Acts 2003, ch. 90, § 2; 2013, ch. 209, § 3.

Current through 2017 Regular Session (Chapter 493)

67-1-403. Officers – Quorum – Record of daily transactions – Compensation – Training.

(a) Each county board of equalization shall elect one (1) of its members chair and one (1) secretary of the board.

(b) A majority of the board shall constitute a quorum for the transaction of business.

(c) The board shall keep a daily record of its transactions and sign the record.

(d) Board members shall be paid by the county a compensation for their services. The county legislative body shall by resolution establish the compensation of the members and the chair of the county board of equalization.

(e)(1) The county mayor shall require board members and county board hearing officers to complete annual continuing education and training on duties and responsibilities of their office as a condition of appointment or continued service.

(2) The county legislative body shall by resolution establish the minimum of at least four (4) hours of training for board members to complete annually and minimum recordkeeping requirements related to members' certificates of attendance.

(3) The subjects for the training and continuing education shall include board governance, open meetings requirements, and other topics reasonably related to the duties of the members of the county board of equalization.

(4) Any association or organization with appropriate knowledge and experience may prepare a training and continuing education curriculum for county boards of equalization covering the subjects set forth in subdivision (e)(3) to be submitted to the comptroller of the treasury for review and approval prior to use.

(5) Mandatory annual continuing education and training is only required under this subsection (e) to the extent that such education and training is provided by the comptroller of the treasury free of charge.

HISTORY

Acts 1973, ch. 226, § 2; impl. am. Acts 1978, ch. 934, §§ 7, 36; TCA, § 67-253; Acts 1997, ch. 168, § 1; 2014, ch. 691, § 1; 2017, ch. 13, § 1.

Current through 2017 Regular Session (Chapter 493)

67-1-404. Sessions.

(a) The county board of equalization and the board of equalization of any metropolitan government organized and existing pursuant to title 7, chapters 1-3 shall, on June 1 each year, meet and sit in regular session as necessity may require until the equalization has been completed; provided, that in any county having a population of not less than twenty-six thousand (26,000) nor more than twenty-six thousand one hundred (26,100), according to the 1970 federal census or any subsequent federal census, the county legislative body may by resolution or ordinance set an earlier date for such board's initial meeting.

(b) (1) The board shall not sit longer than:

(A) Six (6) days in counties having a population of ten thousand (10,000) or less, according to the 1970 federal census or any subsequent federal census;

(B) Ten (10) days in counties having a population of over ten thousand (10,000) and under twenty thousand (20,000), according to the 1970 federal census or any subsequent federal census;

(C) Fifteen (15) days in counties having a population of over twenty thousand (20,000) and under thirty-five thousand (35,000), according to the 1970 federal census or any subsequent federal census; and

(D) For a number of days fixed by the respective county legislative bodies, but not in excess of thirty (30) days, in counties having a population of over thirty-five thousand (35,000), according to the 1970 federal census or any subsequent federal census.

(2) The county mayor, when the county legislative body cannot act, may extend the time or may call the board in special session at any time, if in the county mayor's judgment, the public welfare requires it.

(c) Any county board of equalization, having jurisdiction over a municipality with a beginning tax due date different from that of the county, shall meet as required by the county legislative body, but at least one (1) month prior to the applicable beginning tax due date.

HISTORY

Acts 1973, ch. 226, § 2; impl. am. Acts 1978, ch. 934, §§ 7, 16, 36; Acts 1980, ch. 856, § 1; TCA, § 67-254; Acts 2003, ch. 90, § 2.

Current through 2017 Regular Session (Chapter 493)

67-5-1402. Duties of board.

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

- (1) Carefully examine, compare and equalize the county assessments;
- (2) Assure that all taxable properties are included on the assessment lists;
- (3) Eliminate from the assessment lists such property as is lawfully exempt from taxation; provided, that if an application for exemption of such property is required under part 2 of this chapter, the property shall not be eliminated from the assessment lists unless such exemption is approved by an authorized designee of the state board of equalization;
- (4) Hear complaints of taxpayers who feel aggrieved on account of excessive assessments of their property;
- (5) Decrease the assessments of such properties as the board determines have been excessively assessed;
- (6) Increase the assessments of such properties as the board determines are underassessed; provided, that owners of such properties are duly notified and given an opportunity to be heard;
- (7) Correct such errors arising from clerical mistakes or otherwise that may come or be brought to the attention of the board; and
- (8) Take whatever steps are necessary to assure that the assessments of all properties within its jurisdiction conform to laws of the state and rules and regulations of the state board of equalization.

HISTORY

Acts 1973, ch. 226, § 10; TCA, § 67-801; Acts 1994, ch. 541, § 1.

TENN. CODE ANN. § 67-5-1404

Current through 2017 Regular Session (Chapter 493)

67-5-1404. Power of board to obtain evidence.

(a) The board may examine any person as a witness and hear any proof that may be offered by any taxpayer in or about any question touching the classification, value, or assessment of any property described in the assessment roll.

(b) The board has the power and authority to send for persons and papers, to examine and enforce the attendance of witnesses, and obtain any evidence or information that may be deemed material in the performance of its duties.

(c) Each member of the board has the power to administer an oath, and any person who willfully or corruptly swears falsely to any material fact before the board commits perjury and is indictable for such offense.

HISTORY

Acts 1973, ch. 226, § 10; TCA, § 67-803.

TENN. CODE ANN. § 67-5-1406

Current through 2017 Regular Session (Chapter 493)

67-5-1406. Hearing officers.

(a) The county board of equalization may appoint one (1) or more hearing officers, with approval by simple majority vote of the county commission on a resolution, to conduct preliminary hearings and to make investigations regarding complaints before the board.

(b) The hearing officers shall assist the county board and prepare proposed findings of fact and conclusions and recommend the same to the county board.

(c) The county board 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 county board is given the opportunity to be heard by the board.

HISTORY

Acts 1973, ch. 226, § 10; TCA, § 67-805; 2014, ch. 691, § 2; 2015, ch. 471, § 2.



JUSTIN P. WILSON
Comptroller

JASON E. MUMPOWER
Chief of Staff

To: County Mayors and County Assessors
 From: Betsy Knotts, Executive Secretary, State Board of Equalization
 Date: January 22, 2018
 RE: Required Annual Training for County Board of Equalization Members

A new state law¹ requires county mayors to oversee the appointment of qualified county board of equalization members. In carrying out this duty, county legislative bodies are required to establish a minimum of at least four (4) hours of annual training for board of equalization members as well as the minimum recordkeeping requirements related to members' certificates of attendance.

The Comptroller's office is providing this training free of charge again this year—the flyer with important dates/times/topics is attached. Please encourage all county board of equalization members, alternates, and appointed hearing officers to attend this training. In addition, please engage your county legislative body in the proper implementation of this new training requirement by passing the required resolution and maintaining the certificates of attendance of county board of equalization members, alternates, and hearing officers. Please note that noncompliance with this new requirement may lead to an audit finding.

I am here to assist with any questions that you may have. Please call me at (615) 401-7954 or email me at betsy.knotts@cot.tn.gov.

Cc: Justin P. Wilson and Jason Mumpower, Comptroller of the Treasury
 Susan Gullette, Director, Division of Property Assessments
 Jim Arnette, Director, Local Government Audit

¹ Tenn. Code Ann. § 67-1-403 (e)(1) The county mayor shall require board members and county board hearing officers to complete annual continuing education and training on duties and responsibilities of their office as a condition of appointment or continued service.

(2) The county legislative body shall by resolution establish the minimum of at least four (4) hours of training for board members to complete annually and minimum recordkeeping requirements related to members' certificates of attendance.

(3) The subjects for the training and continuing education shall include board governance, open meetings requirements, and other topics reasonably related to the duties of the members of the county board of equalization.

(4) Any association or organization with appropriate knowledge and experience may prepare a training and continuing education curriculum for county boards of equalization covering the subjects set forth in subdivision (e)(3) to be submitted to the comptroller of the treasury for review and approval prior to use.

(5) Mandatory annual continuing education and training is only required under this subsection (e) to the extent that such education and training is provided by the comptroller of the treasury free of charge.

OATH FOR MEMBER OR ALTERNATE OF COUNTY BOARD OF EQUALIZATION

State of Tennessee, _____ County.

I, _____, member of the board of equalization of such county do hereby solemnly swear (or affirm) that I will carefully examine, compare and equalize the assessments of such county in accordance with the constitution and the laws of the state of Tennessee; and that to the best of my knowledge and ability I will faithfully, honestly and impartially perform all duties imposed upon me as a member of the board by the laws of the state of Tennessee.

Signed _____
Board Member

Sworn to before me this the _____ day of _____, 20____

Signature: _____

Print Name: _____

Title: _____

OATH FOR HEARING OFFICER FOR COUNTY BOARD OF EQUALIZATION

I, _____, Hearing Officer for the
_____ County Board of Equalization, do solemnly swear (or affirm)
that I will faithfully, honestly, and impartially discharge my duties as a Hearing Officer to the
best of my knowledge and ability in accordance with the laws of the state of Tennessee.

Signed _____
Hearing Officer

Sworn to before me this the _____ day of _____, 20____

Signature: _____

Print Name: _____

Title: _____

OATH BY COUNTY ASSESSOR TO ACCOMPANY REPORT OF ASSESSMENTS TO THE COUNTY BOARD OF EQUALIZATION

I, _____, assessor of the county (city) of _____, State of Tennessee, do solemnly swear (or affirm) that I have assessed all taxable property, in the county (city) of _____, as far as ascertainable, to the true owners thereof, and that I have determined the classification and assessed valuation of all taxable property as prescribed by law; and that I have faithfully discharged all my duties without fear, favor, or affection to the best of my knowledge and ability, so help me God.

Signed _____
County Assessor

Sworn to before me this the _____ day of _____, 20____

Signature: _____

Print Name: _____

Title: _____

PART III. LEASED PERSONAL PROPERTY - Report all items leased or rented by you for the conduct of your business as of January 1. If additional space is needed, attach a separate sheet using the same format. Regardless of any contract between the lessor and lessee as to who shall pay the taxes, leased personal property is to be assessed to the lessee.

GRP	ITEM DESCRIPTION MAKE AND MODEL NUMBER SERIAL NUMBER	ITEM COST	LEASE TERM YEAR LEASE BEGAN	MONTHLY RENT	LEASE TYPE	LESSOR'S LEASE NUMBER	LESSOR NAME & ADDRESS
					Operating Capital Other		
					Operating Capital Other		
					Operating Capital Other		
					Operating Capital Other		
					Operating Capital Other		
					Operating Capital Other		
					Operating Capital Other		
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					Operating Capital Other		
					Operating Capital Other		

PART IV. OWNED PERSONAL PROPERTY - NONSTANDARD VALUE - Report property on which you wish to report a value different from standard depreciated cost where such value more closely reflects fair market value. The assessor may request supportive evidence before accepting such a value, such as recent appraisals and authoritative price and valuation guides for subject property. If additional space is needed, attach a separate sheet using the same format.

GRP	ITEM DESCRIPTION	YEAR MADE	ORIGINAL COST	DEPR FACTOR	VALUE AS OF JANUARY 1	ASSESSOR USE ONLY	
						DEPR	VALUE

PART V. POLLUTION CONTROL - Report pollution control equipment qualified under T.C.A. 67-5-604. Such equipment will be valued at one-half percent of cost.

COST	CERTIFICATE YEAR	CERTIFICATE EXPIRES

NOTES

SMALL ACCOUNTS CERTIFICATION (OPTIONAL). By checking the box at left, I certify that the total depreciated value of my property (all groups) is \$1,000 or less. I understand this certification is subject to penalties for perjury and I may be subject to statutory penalty and cost if this certification is proven false.

I certify that the information herein, including any accompanying schedules or data, is true, correct and complete, to the best of my knowledge and belief.

PRINT NAME _____ PRINT TITLE _____

SIGNED _____ TITLE _____ DATE _____

NOTICE

Pursuant to Section 67-5-508, *Tennessee Code Annotated*, the property assessment records of _____ County will be available for public inspection at Room _____ County Courthouse during normal business hours. Any person desiring to inspect these records may do so at the appointed time and place.

The _____ County Board of Equalization will begin its annual session to examine and equalize the county assessments on _____, 2017. **THE BOARD WILL ACCEPT APPEALS FOR TAX YEAR 2017 ONLY UNTIL THE LAST DAY OF ITS 2017 REGULAR SESSION, WHICH WILL BE _____, 2017.** The Board will meet each weekday from the hours of _____ to _____ in Room _____ County Courthouse. Any owner of property who wishes to make a complaint or appeal to the County Board of Equalization must appear before said Board at this time personally or by personal appearance of an agent for the owner bearing the owner's written authorization. Failure to appear and appeal an assessment will result in the assessment becoming final without further right of appeal.

Enclosure 2
SBE Rev. 3/00

NAME OF PROPERTY OWNER: _____

ADDRESS OF PROPERTY OWNER: _____

COUNTY: _____

DATE: _____

This is to notify you that the County Board of Equalization has considered your complaint regarding the assessment of your property and has determined that it should be assessed for the current year as shown below.

YOUR APPEAL RIGHTS

If you desire to appeal this decision, contact the State Board of Equalization at:

**State Board of Equalization
Cordell Hull Building
425 Fifth Avenue North
Nashville, TN 37243-3400
Telephone: (615) 401-7883
Fax: (615)253-4847
Email: sb.web@cot.tn.gov**

You may also appeal online at <http://comptoller.tn.gov/SBOE/sbappeal.asp>. Appeals must be postmarked or submitted to the State Board of Equalization on or before August 1st or 45 days from the date of this notice (whichever is later). Failure to timely file an appeal will result in a loss of your right to any further appeal and the assessment will become final.

THIS IS NOT A TAX BILL

(Signed) _____

**CHAIRMAN
COUNTY BOARD OF EQUALIZATION**

DESCRIPTION OF PROPERTY VALUE ASSESSMENT TAX YEAR

Enclosure 3
SBE Rev. 5/17

NOTICE TO STATE BOARD OF EQUALIZATION

RE: DATE OF LAST ACTION BY BOARD OF EQUALIZATION

This is to notify the State Board of Equalization that the last notice of action by the local board of equalization was mailed on _____.
(Date)

(Signed) _____
Assessor of Property
for

(County or City)

Return to:

State of Tennessee
State Board of Equalization
Cordell Hull Building
425 Fifth Avenue North
Nashville, TN 37243-3400

Enclosure 6
SBE 5/91

CERTIFICATE OF DISCHARGE

“We, the undersigned members of the board of equalization of _____ County, do hereby certify that we have examined the assessments and classifications 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 _____, _____”

- _____
Member

Enclosure 7
5/98

COUNTY BOARD OF EQUALIZATION RESIDENTIAL CHECKLIST FOR PROPERTY APPEALS

DESCRIPTION AND SALES DATA:

Name: _____ Property Address: _____

1. When was your home built? _____
2. When did you buy your home? _____
3. Did you purchase your home from a relative? _____
4. How much did you pay for your home? \$ _____
5. How would you rate the condition of your home? POOR / FAIR / GOOD / EXCELLENT
6. How would you compare your home to others in your neighborhood? INFERIOR / AVERAGE / SUPERIOR
7. What do you believe your home and lot are worth? \$ _____
8. How much insurance do you have on your home? \$ _____
9. How many square feet does your home have? _____
10. How much semi finished area do you have, including basements, enclosed garages or porches?
11. Is the property suffering from other physical, functional or economic damage?

A. Other Physical - Substantial damage from poor maintenance or from nature.

B. Functional - Poor floor plan, traffic patterns through rooms, etc.

C. Economic - Property surrounded by industrial development or high crime area, etc.

PHYSICAL CHANGES SINCE PURCHASE:

12. If the property is rented, what is the monthly rental amount? \$ _____
13. How many changes have been made to the property since the purchase? _____
14. When were the changes made? _____
15. How much money did you spend on the changes? \$ _____

COMPARABLE DATA:

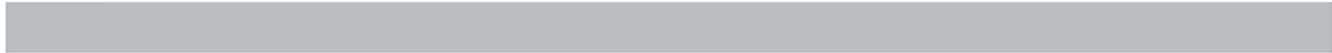
16. Are there any neighboring sales of comparable property? _____
 - A. Sale I** - Street address and sale price _____ \$ _____
 1. Year sold _____
 2. Square footage _____
Other areas, garages, porches, upper stories and basements _____
 3. Lot size _____
 4. How does it compare to your home? _____
 - B. Sale I** - Street address and sale price _____ \$ _____
 1. Year sold _____
 2. Square footage _____

(over)

Other areas, garages, porches, upper stories and basements _____

3. Lot size _____

4. How does it compare to your home? _____



~USE THIS AREA FOR RECOMMENDATIONS, ADDITIONAL INFORMATION OR NOTES~

COUNTY BOARD OF EQUALIZATION COMMERCIAL CHECKLIST FOR PROPERTY APPEALS

DESCRIPTION AND SALES DATA:

Name: _____ Property Address: _____

1. When was your building constructed? _____
2. When did you buy your building? _____
3. Did you purchase it from a relative? _____
4. How much did you pay for it? \$ _____
5. How would you rate the condition of your building? POOR / FAIR / GOOD / EXCELLENT
6. How would you compare your building to others in your neighborhood? INFERIOR / AVERAGE / SUPERIOR
7. What do you believe your building and lot are worth? \$ _____
8. How much insurance do you have on the property? \$ _____
9. How many square feet does your building have? _____
10. How much auxiliary area do you have, including upper store, base semi-finished, service area, etc? _____
11. Is the property suffering from other physical, functional or economic damage?

A. Other Physical - Substantial damage from poor maintenance or from nature

B. Functional - No central heating and cooling, no parking, etc

C. Economic - No interstate service, located on dead-end-street or in a high crime area. etc

INCOME DATA AND EXPENSE:

12. If the property is rented, what is the monthly rental amount? \$ _____
13. Who is the property rented to? _____
14. Is there a relationship between the owner and tenant? _____
15. Is there a lease? _____ If so, what are the terms? _____
16. What are the typical expenses for a three-year period? \$ _____
17. Are the expenses shared? _____
18. What is the typical vacancy rate for three years? _____

PHYSICAL CHANGES SINCE PURCHASE:

19. How many changes have been made to the property since the purchase? _____
20. When were the changes made? _____
21. How much money did you spend on the changes? \$ _____

PHYSICAL CHANGES SINCE PURCHASE:

22. Are there any neighboring rents or sales of comparable property? _____
 - A. Comp. 1** - Sale () Rent () Street address _____
 1. Date of sale and amount _____ \$ _____
 2. Rent per square foot \$ _____

(over)

3. Square footage _____
Auxiliary areas, upper story, base semi-finished, service area, etc _____

4. Lot size _____

5. How does it compare to your building? INFERIOR / AVERAGE / SUPERIOR

B. Comp. 2 - Sale () Rent () Street address _____

1. Date of sale and amount _____ \$ _____

2. Rent per square foot \$ _____

3. Square footage _____

Auxiliary areas, upper story, base semi-finished, service area, etc. _____

4. Lot size _____

5. How does it compare to your building? INFERIOR / AVERAGE / SUPERIOR

~USE THIS AREA FOR RECOMMENDATIONS, ADDITIONAL INFORMATION OR NOTES~

COUNTY BOARD OF EQUALIZATION
VACANT RESIDENTIAL / SMALL TRACT CHECKLIST FOR PROPERTY APPEALS

DESCRIPTION AND SALES DATA:

Name: _____ Property Address: _____

- 1. When did you buy this property?
2. How much did you pay for it? \$
3. What were the circumstances for the sale? REALTOR / AUCTION / PURCHASED FROM OWNER / OTHER
4. What was the relationship between the grantor and grantee, if any?
5. What is the size of the property?
6. What is the shape of the property? RECTANGULAR / SQUARE / TRIANGULAR / OTHER
7. Are there any restrictions on the use of the property?
a. Physical restrictions: ELEVATION / IMPAIRED ENTRY OR EXIT / DRAINAGE / OTHER
b. Governmental restrictions: ZONING / EASEMENTS:(electrical, etc.) / FLOOD ZONE / OTHER
8. What is the topography of the property? FLAT / GENTLY ROLLING / STEEP / OTHER
9. What utilities are available to the property? WATER / ELECTRICITY / SEWER / GAS
10. Have any improvements been made to the property? SEPTIC TANK / WELL / NONE
11. What is the intended use for the property?

COMPARABLE DATA:

- 12. Are there any neighboring sales of comparable property?
A. Sale I - Street address and sale price \$
1. Year sold
2. Lot size
3. What is the shape of the property? RECTANGULAR / SQUARE / TRIANGULAR / OTHER
4. Are there any restrictions on the use of this property?
a. Physical restrictions: ELEVATION / IMPAIRED ENTRY OR EXIT / DRAINAGE / OTHER
b. Governmental restrictions: ZONING / EASEMENTS:(electrical, etc.) / FLOOD ZONE / OTHER
5. What is the topography of the property? FLAT / GENTLY ROLLING / STEEP / OTHER
6. What utilities are available to the property? WATER / ELECTRICITY / SEWER / GAS
7. Have any improvements been made to the property? SEPTIC TANK / WELL / NONE
8. How does it compare to your lot? INFERIOR / AVERAGE / SUPERIOR

~USE THIS AREA FOR RECOMMENDATIONS, ADDITIONAL INFORMATION OR NOTES~

COUNTY BOARD OF EQUALIZATION AGRICULTURAL CHECKLIST FOR PROPERTY APPEALS

DESCRIPTION AND SALES DATA:

Name: _____ Property Address: _____

1. When did you buy this property? _____
2. How much did you pay for it? \$ _____
3. What were the circumstances for the sale? REALTOR / AUCTION / PURCHASED FROM OWNER / OTHER
4. What was the relationship between the grantor and grantee, if any? _____
5. What is the size of the property? _____
6. What is the shape of the property? RECTANGULAR / SQUARE / TRIANGULAR / OTHER
7. Are there any restrictions on the use of the property?
 - a. Physical restrictions: ELEVATION / IMPAIRED ENTRY OR EXIT / DRAINAGE / OTHER
 - b. Governmental restrictions: ZONING / EASEMENTS:(electrical, etc.) / FLOOD ZONE / OTHER
8. What is the topography of the property? FLAT / GENTLY ROLLING / STEEP / OTHER
9. What utilities are available to the property? WATER / ELECTRICITY / SEWER / GAS
10. Have any improvements been made to the property? SEPTIC TANK / WELL / NONE
11. What is the intended use for the property? _____
12. How many acres were bought? _____
13. How many acres of: **crop land** _____ **rotation land** _____ **pasture land** _____ **woodland** _____
14. What type of road is next to the property? STATE HIGHWAY / COUNTY ROAD PAVED / COUNTY ROAD GRAVEL / DIRT

COMPARABLE DATA:

15. Are there any neighboring sales of comparable property? _____
 - A. **Sale 1** - Location and sale price _____ \$ _____
 1. Year sold _____
 2. Acreage _____
 3. How many acres of: **crop land** _____ **rotation land** _____ **pasture land** _____ **woodland** _____
 4. What type of road is next to the property? STATE HIGHWAY / COUNTY ROAD PAVED / COUNTY ROAD GRAVEL / DIRT
 5. Are there any restrictions on the use of this property?
 - a. Physical restrictions: ELEVATION / IMPAIRED ENTRY OR EXIT / DRAINAGE / OTHER
 - b. Governmental restrictions: ZONING / EASEMENTS:(electrical, etc.) / FLOOD ZONE / OTHER
 6. What is the topography of the property? FLAT / GENTLY ROLLING / STEEP / OTHER
 7. What utilities are available to the property? WATER / ELECTRICITY / SEWER / GAS
 8. Have any improvements been made to the property? SEPTIC TANK / WELL / NONE
 9. How does it compare to your lot? INFERIOR / AVERAGE / SUPERIOR
 - B. **Sale 2** - Location and sale price _____ \$ _____
 1. Year sold _____

(over)

2. Acreage _____
3. How many acres of: **crop land** _____ **rotation land** _____ **pasture land** _____ **woodland** _____
4. What type of road is next to the property? STATE HIGHWAY / COUNTY ROAD PAVED / COUNTY ROAD GRAVEL / DIRT
5. Are there any restrictions on the use of this property?
 - a. Physical restrictions: ELEVATION / IMPAIRED ENTRY OR EXIT / DRAINAGE / OTHER
 - b. Governmental restrictions: ZONING / EASEMENTS:(electrical, etc.) / FLOOD ZONE / OTHER
6. What is the topography of the property? FLAT / GENTLY ROLLING / STEEP / OTHER
7. What utilities are available to the property? WATER / ELECTRICITY / SEWER / GAS
8. Have any improvements been made to the property? SEPTIC TANK / WELL / NONE
9. How does it compare to your lot? INFERIOR / AVERAGE / SUPERIOR

~USE THIS AREA FOR RECOMMENDATIONS, ADDITIONAL INFORMATION OR NOTES~

Call to Order

- 1) **Chairperson or vice-chair calls the meeting to order.**
Note: In some counties, the members of the board are introduced, and an overview of the proceeding is provided. In other counties, the board members have name plates at the hearing table.
- 2) **Chairperson explains the nature of the appeal about to be heard.**
- 3) **Chairperson swears in any persons that may possibly offer testimony during the hearing, including the taxpayer, county assessor, and taxpayer representative.**



Hearing of Evidence

Taxpayer/Appellant Proof	Assessor of Property Proof
4) The party filing the appeal is asked to explain their position and told to proceed with their case, including presenting any evidence they wish to provide.	5) At the conclusion of the taxpayer’s presentation, the assessor presents its findings.

The members of the board may ask questions of either party and the parties may ask questions of each other.

Deliberations & Decision

- 6) Once the panel moves into deliberations, **no further evidence or comments can be made by the parties at this point.**
- 7) Chairperson asks if any member wishes to make a motion. Motion is eventually made and seconded.
- 8) Once the county board has deliberated and rendered its decision, the secretary or other designated person makes written notation of:
 - The decision;
 - Who made and seconded the motions; and
 - How each member voted.

State of Tennessee



WILLIAM M. LEECH, JR.
ATTORNEY GENERAL & REPORTER

WILLIAM B. HUBBARD
CHIEF DEPUTY ATTORNEY GENERAL

ROBERT B. LITTLETON
SPECIAL DEPUTY FOR LITIGATION

OFFICE OF THE ATTORNEY GENERAL

450 JAMES ROBERTSON PARKWAY

NASHVILLE, TENNESSEE 37219

January 19, 1984

DEPUTY ATTORNEYS GENERAL
DONALD L. CORLEW
JIMMY G. CREECY
ROBERT A. GRUNOW
WILLIAM J. HAYNES, JR.
ROBERT E. KENDRICK
MICHAEL E. TERRY

Honorable Dale Kelley
State Representative
108 War Memorial Building
Nashville, Tennessee 37219

Dear Representative Kelley:

You have requested the opinion of this office on the following topic:

QUESTION

Under T.C.A. § 67-5-1407(a)(1)(c), can an owner of property appearing in person before a county board of equalization make an oral complaint that the property of another property owner has been assessed on the basis of appraised values which are less than the basis of the value provided for by statute utilizing the county tax rolls present in the meeting as evidence without making the complaint in writing and under oath?

OPINION

It is the opinion of this office that an owner of property appearing in person before a county board of equalization can make an oral complaint that the property of another property owner has been assessed on the basis of appraised values which are less than the basis of the value provided for by statute utilizing the county tax rolls present in the meeting as evidence without making the complaint in writing and under oath.

ANALYSIS

T.C.A. § 67-5-1407(a)(1) provides the following with regard to complaints to the county board of equalization:

Honorable Dale Kelley
Page Two

Any owner of property liable for taxation in the state shall have the right in person, or by his agents, to make complaint before the county board of equalization on one or more of the following grounds:

* * *

(c) Property other than property owned by the taxpayer has been assessed on the basis of appraised values which are less than the basis of value provided for in part 6 of this chapter.

There are no cases in Tennessee interpreting the above quoted statutory provision. However, under the general rules of statutory construction, words of a statute should be taken in their natural and ordinary sense without any forced or subtle construction. Tennessee Blacktop v. Benson, 494 S.W.2d 790 (Tenn. 1973). See also Stalcup v. Gatlinburg, 577 S.W.2d 439 (Tenn. 1978) (Words of a statute must be given their natural effect and import.); Continental Insurance Companies v. Pruitt, 541 S.W.2d 594 (Tenn. 1976) (Words will be given their ordinary and commonly accepted meaning).

Applying this general rule of statutory construction to T.C.A. § 67-5-1407(a)(1), the word "complaint" must be read in its natural and ordinary sense without any forced or subtle construction. To impose the requirement that the "complaint" be written and under oath would be a forced construction as that requirement is not contained in the statute; furthermore, the statute would appear to contemplate oral complaints by the fact that an owner of property has the right to make a complaint before the county board of equalization "in person".

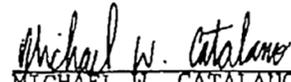
Based upon this reasoning, it is the opinion of this office that an owner of property appearing in person before a county board of equalization may make an oral complaint that the property of another property owner has been assessed on the basis of appraised values which are less than the basis of the value provided for by statute utilizing the county tax rolls present in the meeting as evidence without making the complaint in writing and under oath.

Sincerely,


WILLIAM M. LEECH, SR.
Attorney General and Reporter

Honorable Dale Kelley
Page Three


WILLIAM B. HUBBARD
Chief Deputy Attorney General


MICHAEL W. CATALANO
Assistant Attorney General

xc: Jerry Shelton, Executive Secretary
State Board of Equalization

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

In re:

STEWART COUNTY TAXPAYERS

Parcels listed in Exhibit A

Tax years 2009 & 2010

Stewart County

ORDER ASSIGNING PETITIONS FOR HEARING

This matter involves thirty-one petitions filed by the state Division of Property Assessments (DPA) seeking review by the Board of tax year 2009 assessment reductions ordered by the Stewart County Board of Equalization. The petitions were filed pursuant to Tenn. Code Ann. §67-5-1510 on December 29, 2009, and the Board met in Nashville on January 12, 2010 to determine an orderly process for addressing the petitions. Mr. Robert Lee, General Counsel to the state Comptroller and representing DPA, presented the petitions alleging the county board reduced assessments without or despite facts and information relevant to a proper assessment. One of the affected property owners, Mrs. Ann Shepherd, spoke in opposition to the petitions and stated she believed the assessment established by the county board for her property was justified.

DPA is given the duty by statute to “effect the assessment of all property in the state in accordance with the state constitution and all statutory provisions.” Tenn. Code Ann. §67-1-202 (a)(6). Stewart County completed a county-wide reappraisal for tax year 2009 pursuant to Tenn. Code Ann. §§67-5-1601 et seq. DPA is charged by law to “require that counties or other taxing jurisdictions take whatever steps deemed necessary by the state board of equalization to assure that reappraisal and revaluation programs are maintained and updated in accordance with the instructions, policies, rules and regulations as adopted by the state board of equalization.” §67-1-202 (a)(10).

DPA has examined actions of the Stewart County Board of Equalization in the hearing and disposition of appeals for tax year 2009 and determined that reductions ordered for the properties subject of the pending petitions, were not justified by evidence presented to the county board. The State Board of Equalization finds on the basis of representations by DPA, there is reason to believe the individual assessments as reduced

by the county board are inadequate, warranting assignment of the DPA petitions for individual hearing before an administrative judge sitting for the Board.

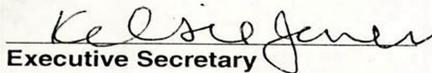
The Board further finds the owners of these properties should be given the opportunity to meet informally with DPA before hearings are scheduled by the administrative judge, in the event there is a basis for agreement on the proper assessment that could obviate the need for a hearing.

It is accordingly ORDERED, these petitions are assigned for hearing before an administrative judge sitting alone for the Board pursuant to Tenn. Code Ann. §67-5-1505, and the administrative judge shall prepare initial decisions and orders subject to further review by the Assessment Appeals Commission. It is further ORDERED, that affected property owners be informed by certified letter they may request an informal meeting with DPA staff in Dover before scheduling of the administrative judge hearing.

DATED: January 13, 2010


Presiding Member

ATTEST:


Executive Secretary

cc: Affected property owners (see Exhibit A)
Mr. Robert Lee, Esq.
Members, Stewart Co. Board of Equalization (c/o Stewart Co. Mayor Rick Joiner)
Ms. Connie Brigham, Assessor

EXHIBIT A

Name	Address	City	State	Zip	Parcel ID
Arthur A. Cole & Leigh Mendoza	118 Watson Road	Big Rock	TN	37023	036-066.06 001
George R. & Debis H Bratton, Jr	9224 Fox Run Drive	Brentwood	TN	37027	134-014.00
David Edgar & Alta Ruth Bentley	2724 Cumberland City Road	Dover	TN	37058	104-039.01
Timmy Fitzhugh	P.O. Box 67	Dover	TN	37058	115-007.04
Mary W. & Karen J. Taylor	10355 Memphis Arlington Road	Lakeland	TN	38002	110-006.23
William R. Adamec	115 Fox Trail	Dover	TN	37058	104-009.19
Patrina L. Feijo	150 Cumberland Road	Dover	TN	37058	104-030.01
Anna Verlene & Raymond C. Feijo	174 Cumberland Road	Dover	TN	37058	104-030.00
Janie J. & Carol L. Deptula	190 Fox Trail	Dover	TN	37058	104-009.10
erry Swift	1779 Hwy 79	Dover	TN	37058	115-002.01
Wilby M. Williams & Donna M. Byrd	P.O. Box 463	Dover	TN	37058	076-027.02
Licky W. & Deborah Kent Williams	159 Cherry Chapel Road	Dover	TN	37058	097-005.00
Robert D. Wallace	P.O. Box 23	Dover	TN	37058	054-018.01
Barry & Ann A. Shepherd	108 Adkins Road	Dover	TN	37058	044-076.01
Charles Reynolds & Charles W. Reynolds Jr.	1547 Cumberland City Road	Cumberland City	TN	37050	119-007.00T
erry Alvin Powers	809 Scotts Chapel Road	Cumberland City	TN	37050	139-007.00
Charles E. & Mary E. Kent	114 Kent Lane	Dover	TN	37058	097-007.00
Wayne & Cynthia Kent	120 Kent Lane	Dover	TN	37058	097-007.01, 097-006.01, 104-037.00
Jenneth E. Morgan	6471 E Antioch Road	Buchanan	TN	38222	091-003.00, 091-002.00, 110-006.00
Jeffrey & Cheryl Moore	2746 Hwy 79	Indian Mound	TN	37079	057-024.00
Steve W. Mohon	328 River Trace	Dover	TN	37058	110B-B-003.00, 110B-B-004.00, 110B-B-002.00
Maxie & Doris Milliken	1201 Lee Hollow Road	Indian Mound	TN	37079	081-012.03
Richard L. Tipton, Mary Miller & Robert M. Tipton	2350 Hooks Lane	Woodlawn	TN	37191	120-009.00, 121-005.00
James F. & Wilma J. Mathis	1759 Highway 49	Dover	TN	37058	083-034.00
Jenneth & Janice C. Keatts	150 Hickory Road	Big Rock	TN	37023	044-059.12
Jenneth R. & Mickie E. Hodge	2233 Hwy 76	Portland	TN	37148	133-023.00, 133-022.00
Gregory Joe Garrett	274 Audubon Trail	Dover	TN	37058	104-009.14
Jan & Karin Black	145 Overlook Drive	Dover	TN	37058	136-001.02, 127-001.01
Lanny R. & Annette S. Earhart	1026 Hwy 79	Dover	TN	37058	055-030.06
Larie Mae Pinder	209 Albert Glasgow Road	Dover	TN	37058	083-012.01
Way Boyd & Wilby M. Williams	P.O. Box 463	Dover	TN	37058	082-025.00

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION
ASSESSMENT APPEALS COMMISSION

In the matter of:)
)
Petition for Declaratory Order)
)
JERRY R. CARUTHERS and DAVID)
HOLLINGSWORTH)
)
Regarding Complaints to County Boards)
of Equalization)

FINAL DECISION AND ORDER

Statement of the case

Petitioners seek a ruling from the State Board of Equalization under Tenn. Code Ann. §4-5-223, that property tax appeals to the county boards of equalization in Tennessee may be filed so long as the board remains in session for a given tax year, whether the board be in regular or special session. The administrative judge sitting for the Board ruled that the deadline for acceptance of appeals by the county board is the date of the adjournment of the regular session, pursuant to Tenn. Code Ann. §67-5-1401, and that appeals may not be accepted during any special sessions to which the board may have been called after such adjournment. Petitioners ask the Commission to reverse the decision of the administrative judge, and their appeal was heard in Memphis on March 1, 1995, before Commission members Stokes (presiding), Crain, Isenberg, and Schulten. Mr. Caruthers represented himself, and the assessor, who had intervened in the proceedings, was represented by staff attorney Michael Dennie.

Findings of fact and conclusions of law

As a preliminary matter, petitioners questioned the authority of the Board to hear petitions for declaratory ruling through its executive secretary or administrative judges. The Board's use of its executive secretary and administrative judges, according to petitioners, is limited to hearings and

investigations concerning property tax assessments, and may not extend to declaratory proceedings, which are separately provided under the state Uniform Administrative Procedures Act (UAPA). *See*, Tenn. Code Ann. §§4-3-5105, 4-5-223, 4-5-301, and 67-5-1505.

We believe petitioners interpret the UAPA too strictly. By its terms, the UAPA is “remedial legislation designed to clarify and bring uniformity to the procedures of state administrative agencies”. Tenn. Code Ann. §4-5-103. Declaratory proceedings are a procedural device by which an agency exercises the substantive powers given it by other organic law, determining “the validity or applicability of a statute, rule or order within the primary jurisdiction of the agency.” Tenn. Code Ann. §4-5-223. The functions of the Board relate to assessments of property for *ad valorem* taxes, and declaratory proceedings are simply a means like any other, such as rulemaking or contested appeals, by which the Board exercises its assessment functions.

The Board is authorized to subdelegate assessment hearings and investigations to its executive secretary and administrative judges, and only a strained reading of the Board’s organic statutes would exclude use of the executive secretary and administrative judges for declaratory assessment hearings while allowing their use for other assessment hearings. The UAPA “shall be given a liberal construction and any doubt as to the existence of a power conferred shall be resolved in favor of the existence of the power.” Tenn. Code Ann. §4-5-103.

Petitioners also allege that the administrative judge was prohibited from serving in this case because he had previously authored advice letters on the issue of appeal deadlines. Petitioners allege these letters, although written months before the instant case arose, constitute participation by the judge in a “preliminary determination” of the case in violation of Tenn. Code Ann. §4-5-303 (c). By this reasoning, any interpretation or expression of opinion concerning the law by a judge or agency member, however general or neutral the context, would forever

disqualify that judge or agency member from participation in a later contested case involving the same issue. The statute was more likely intended to spare a party in a contested case from the futility of having to repeat proof to a judge who had already ruled against the party based on that same proof or that offered by an opposing party. The administrative judge found that none of the petitioners' proof or arguments had even been conceived when the general advice letters were composed months earlier. In any event, petitioners waived this issue when it might best have served them to raise it (before the administrative judge hearing), and they have their appeal now to a further administrative level where the administrative judge will not take part.

As a final procedural issue petitioners assert that the initial decision and order is void for having been issued more than ninety days after the hearing, in violation of Tenn. Code Ann. §4-5-314 (g). The statute does not state that orders issued more than ninety days after hearing are void, however. In fact no consequence is stated in the law, and the "deadline" has been characterized by the courts as a directory rather than mandatory requirement. *Garrett v. State Dept. of Safety*, 717 S. W. 2d 290 (Tenn. 1986).

On the primary issue of these declaratory proceedings, petitioners assert that the administrative judge has misinterpreted Tenn. Code Ann. §67-5-1401, which states as follows:

If the taxpayer fails, neglects or refuses to appear before the county board of equalization prior to its final adjournment, the assessment as determined by the assessor shall be conclusive against the taxpayer, and such taxpayer shall be required to pay the taxes on such amount; provided, however, that nothing herein shall be taken as conclusive against the state, county, or municipality.

The administrative judge has interpreted "final adjournment" to refer to the regular session of the county board for the year, which is limited to a specific number of days fixed by law for each county according to county population. The law also provides for extension of the regular session and for special or extraordinary sessions of the county board at the direction of the county executive or county

that it is simply incorrect and conflicts with various provisions of the property tax code, but we find that petitioners have failed to consider the property tax code as an interrelated whole and they thereby ignore not only the necessary implications of the statutes but also the policy imperatives underlying them.

Since the statutes do not contain a specific deadline for annual appeals to the county board, obviously reasonable minds may differ on whether there is an implicit deadline and what that deadline might be, but we find that sound policy and a reading of the various statutes together rather than in isolation, supports the view that the regular session of the county board defines the period in which appeals may be accepted. The rationale of this view is stated in the initial decision and order, and we adopt its findings and conclusions as our own. In petitioners' view, the county board must accept appeals so long as it is in session for any purpose, with the very real result that the session may never end, new appeals being filed as quickly as pending ones are resolved. If the regular session defines the period for filing, on the other hand, taxpayers are not prejudiced because they have been given newspaper notice of the deadline under Tenn. Code Ann. §67-5-508, actual notice of assessment changes (§67-5-508), direct appeal to the State Board where no notice is sent (§67-5-508), and a hearing to show reasonable cause to waive the deadline if appropriate (§67-5-1412). From the county's viewpoint, if the county board's regular session defines the time period for acceptance of appeals for the tax year, the county commission can identify its potential loss of assessment base and adjust its tax rate accordingly before the October billing date. If appeals may continue to come in during special sessions called to allow the board to finish its work, the county commission is left to guess whether its adopted tax rate will be sufficient to fund county services.

ORDER

It is therefore ORDERED, that the initial decision and order of the administrative judge is affirmed and we adopt the ruling as stated therein. This order is subject to:

1. Reconsideration by the Commission, in the Commission's discretion.

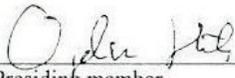
Reconsideration must be requested in writing, stating specific grounds for relief and the request must be filed with the Executive Secretary of the State Board within ten (10) days from the date of this order.

2. Review by the State Board of Equalization, in the Board's discretion. This review must be requested in writing, state specific grounds for relief, and be filed with the Executive Secretary of the State Board within fifteen (15) days from the date of this order.

3. Review by the Chancery Court of Davidson County or the county where the property is located. A petition must be filed within sixty (60) days from the date of the official assessment certificate which will be issued when this matter has become final.

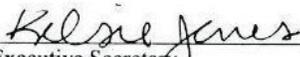
Requests for stay of effectiveness will not be accepted.

DATED: June 29, 1995



Presiding member

ATTEST:



Executive Secretary

cc: Fred M. Ridolphi, Jr., Esq.
Jerry R. Caruthers
Michael Dennie, Esq.



Comptroller of the Treasury, Authorization No. 307403,
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