NCDOR | NORTH CAROLINA DEPARTMENT OF REVENUE

Property Tax Appeals

Board of Equalization and Review

County Training

Agenda

- Property tax appeal process
- Powers and duties of the Board of Equalization & Review (BOER)
- Hearing preparation
- General considerations
- Appraisal standards
- Personal property
- Discovery and related statutes

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PROPERTY TAX APPEAL PROCESS

Who may file an appeal? N.C.G.S. §105-290(d2)

- Anyone who owns or controls property within the county
  - Joint owners may file separate appeals
  - Their own or property of others (if aggrieved)
- NC licensed attorney
- Business entity representatives
  - Principal officers
  - Manager or member-manager of LLC
  - Authorized full-time employee
  - Authorized owner

Other Possible Representatives

- Family members (medical issues)
- Tax reps
- Recommend power of attorney to protect county and property owner
- Consult county attorney

Assessor Review

- Review of property requested by taxpayer, or
- Review based on assessor's own discretion
- Requested prior to BOER convening
- Assessor makes decision (N.C.G.S. §105-296)
- Taxpayer may appeal decision or changes to BOER

Board of Equalization and Review

- All appeals should be heard by BOER after convening
- Assessor's authority to make changes shifts to BOER
- Decisions recorded in minutes of BOER
- Written notice of BOER decision sent to taxpayer
- Taxpayer may appeal BOER decision to Property Tax Commission (PTC)

Property Tax Commission

- Hears appeals from county BOER decisions
- Must be filed within 30 days of notice of BOER decision and include a copy of the BOER decision
- *De novo* hearing
  - "From the new"
  - Rule on new evidence, not on prior BOER hearing
- Parties may appeal PTC decision to the Court of Appeals (COA)

Formal Appeals

NC Court of Appeals

- Hears appeals from PTC decisions
- Must be filed within 30 days of written decision of PTC
- Parties may appeal COA decision to the Supreme Court

NC Supreme Court

- Discretionary review of COA decision
- Must be filed within 15 days of mandate issued by COA

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POWERS AND DUTIES OF THE BOARD

Personnel N.C.G.S. §105-322(a)

- Board of County Commissioners (BOCC) or
- Special Board of Equalization and Review
  - Appointed by resolution of BOCC
  - Adopt no later than first Monday in March
    - Filed with Clerk to the BOCC
    - Copy submitted to NCDOR
  - BOCC designates Chairperson

Quasi-judicial

- Powers and procedures resemble court of law
- Fact finding board
- Decisions based on evidence and existing law
- Decisions do not set precedents or create case law
  - Decisions should be consistent and uniform
- Decisions can be challenged
  - Decisions are not final until 30 days have expired

Oath of Office N.C.G.S. §105-322(c)

- Support Constitution and laws of the US and NC
- Must not allow their actions as a member of the board to be influenced by personal or political gain

Clerk to the Board N.C.G.S. §105-322(d)

- Although authority shifts, assessor serves as clerk
- Keeps accurate minutes
- Provides all evidence on appeal to BOER

Duty to Review Tax Lists N.C.G.S. §105-322(g)(1)

- Examine and review tax lists for current year
- List, appraise, and assess taxable property omissions
- Correct errors in name or description of taxable property
- Change the current year appraised value of any property
- Take necessary action to bring lists and records into statutory compliance
- Embody actions via orders and minutes
- Give written notice to taxpayer of any increase in value

Duty to Hear Taxpayer Appeals N.C.G.S. §105-322(g)(2)

Hear timely appeals with respect to:

- Reduction or increase of value for taxpayer's own property
- Increase in value of others' property if aggrieved
- Status of exemption application for own property or property of others

Timely Appeals N.C.G.S. §105-322(g)(2)

- Filed in writing or personal appearance to the BOER
- Filed prior to adjournment of BOER
- Filed within 15 days of BOER notice of decision made in review of tax lists under N.C.G.S. §105-322(g)(1)

Note: Application is timely if filed within 30 days of notice of discovery or 30 days after change in value for PUV. Assessor should process.

Late Applications N.C.G.S. §105-282.1(a1)

BOER may approve acceptance of late applications for exemption or exclusion

- Applies only to tax levied in calendar year in which application is filed
  - Cannot accept applications for prior years
- May accept for *good cause*
- After adjournment, should go to BOCC

Powers in Carrying Out Duties N.C.G.S. §105-322(g)(3)

- Appoint committees
- Employ expert appraisers
- Examine witnesses and documents
- Subpoena witnesses and documents
- Weigh evidence
- Render decisions

Power to Submit Reports N.C.G.S. §105-322(g)(4)

BOER may submit report to NCDOR outlining:

- Quality of the reappraisal
- Problems encountered in reappraisal process
- Quantity of appeals to BOER and PTC
- Success rate of appeals
- Name of any firm conducting reappraisal

Duty to Change Abstracts and Records After Adjournment N.C.G.S. §105-322(g)(5)

BOER may continue to meet and decide appeals on:

- Personal property
- Discovered property
- Motor vehicles
- Present use value (PUV) compliance reviews
- Exemption and exclusion compliance reviews

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HEARING PREPARATION

Preliminary Assessor Review

- Assessor should review all complaints prior to BOER
- Correct factual errors early in the process
- Maintain perception of equity and fairness

Determining Time of Meetings N.C.G.S. §105-322(e)

- Initial meeting between first Monday in April and first Monday in May
- Must adjourn by July 1 in non-revaluation year and December 1 in revaluation year
- Adjournment deadline interpreted as follows:
  - Last possible date for receiving new appeals
  - Last possible date for performing duties and exercising powers

Determining Time of Meetings N.C.G.S. §105-322(e)

- May continue to meet after adjournment to decide timely filed appeals
- Be realistic in determining time needed to hear all requests for hearing
- Be reasonable in determining number of hours and frequency of meetings to complete hearings

General Recommendations

- Convene as early as possible within statutory timeframe
- Reappraisal year: 3-8 weeks between convening and adjournment
- Non-reappraisal year: 2-6 weeks between convening and adjournment
- Considerations when establishing timeline
  - Fairness
  - Uniformity
  - Adequate time to set tax rate

Notice of Hearings N.C.G.S. §105-322(f)

Notice must contain the following:

- Dates
- Locations
- Hours
- Purpose of first meeting
- Convening and adjournment dates
- Early or late adjournment procedures

Publication of Notice of Hearings N.C.G.S. §105-322(f)

- Publish in newspaper of general circulation
- Initial publication 10 days prior to first meeting
- Must publish three times

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Significant Dates

Date	Significance
10 days prior to first meeting	Deadline for the first publication of notice of meetings
First Monday in April	Earliest permitted date for first meeting
First Monday in May	Last permitted date for first meeting
Third Monday following first meeting	Unless a revaluation year, board should complete its duties, unless it determines that a longer period is necessary
July 1	In a non-revaluation year, board may not sit later than this date, except for hearing appeals which have been timely filed.
December 1	In a revaluation year, board must Complete its duties by this date, except for hearing appeals which have been timely filed.
The later of 30 days after adjournment or 30 days after the hearing date	Notice of the board's decision should be mailed to the appellant by this date

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GENERAL CONSIDERATIONS

Format of Meetings

- Maintain appropriate level of formality
- Determine format when BOER convenes and carry through adjournment
- Adopt policies and tools
  - Sign in sheets
  - Hearing scripts
  - Evidence logs

Open Meetings Law / Public Records Law

- Sunshine laws
- Hearings, deliberations, and actions are public
- Public access to records, follow retention schedule

Confidential information remains confidential!

Avoid Conflicts of Interest

- Relatives
- Business partners
- Corporate interests
- Political gains
- Personal gains
- Fee appraisals by county employee, contracted firm, or board member

If conflict exists, excuse oneself from hearing and deliberations.

Appropriate Issues for Appeal

- Subject property appraised substantially above market value
- Subject property not equitably appraised as compared to similar properties
- Legal
  - Discovery
  - Listing
  - Exemption
  - Present use value

Inappropriate Issues for Appeal

- Tax amount
- Level of satisfaction with county services
- Percentage increase in tax/assessed value
- Economic decline of national real estate market
- Post reappraisal refinance reflects lower market value

Greater Weight of Evidence Test

- Compelling evidence
- Based on market value (qualified sales)
- Does NOT consider personal feelings on:
  - Type of property
  - Expert witness
  - Taxpayer's political affiliation
  - Taxpayer's financial situation
  - Taxpayer's primary residence
  - Taxpayer's physical characteristics

Market Value Evidence:

Questions for Taxpayer/Expert

1. Is there an appraisal report?
2. Is the assessment data accurate?
3. Did subject property sell prior to the reappraisal date?
4. Did comparable properties sell prior to the reappraisal date?
5. Do you have income and expense data? (Commercial)
6. Is the subject property assessed comparably to similar properties?

Market Value Evidence:

Documentation

1. Recent appraisal performed prior to reappraisal date
2. Building plans, zoning records, maps, photos
3. Closing settlement statement
4. Sales data on comparable properties
5. Income and expense statements for each of the three years preceding the reappraisal
6. Property record cards for similar properties

Appeal Decisions

- After considering all evidence, BOER adopts order reducing, increasing, or affirming listing or appraised value under appeal
- Notify appellant by mail
- Notice must be sent no later than 30 days after BOER adjourns

Notice of Decision

- Date notice mailed
- Description of property under appeal (identification)
- Value under appeal
- Value determined by BOER
- Address and deadline for appeal to PTC
- Statement to provide copy of notice with PTC appeal
- NCDOR recommended language

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APPRAISAL STANDARDS

Approaches to Value

Sales Comparison Approach

Estimates property's value by reference to comparable sales

Income Approach

Uses capitalization to convert anticipated benefits of ownership of property into an estimate of present value

Cost Approach

Determines replacement cost new less depreciation of an improvement or asset

Market Value vs. Market Price

Market Value

Most probable price a property should bring in a competitive and open market under a fair sale

Market Price

The actual price agreed to in a particular transaction

Market Data vs. Actual Data

Market Data

Data derived from market and reflects fair earning capacity of property

Actual Data

Data reflects actual income received and may not be a true representation of the market

Highest and Best Use

Requires property be appraised at its most profitable use, given it is:

- Legally permissible
- Physically possible
- Economically feasible

Uniform Appraisal Standards N.C.G.S. §105-283

- Appraise all property at its *true value*
- True value = market value
  - Cash price
  - Willing and financially able buyer
  - Willing seller
  - Neither party under duress to buy or sell
  - Buyer and seller have knowledge of all uses of property and capabilities
  - Reasonable exposure to market

Market Value is NOT

- Historical cost
- Construction cost
- Depreciated asset or book value
- Insurance value
- Value in use
- Liquidated or salvage value
- Inheritance value
- Aesthetic

Schedule of Values N.C.G.S. §105-317

- Used in appraising real property
- Sufficient detail to enable those making real property appraisals to adhere to them
- Prepared for appraising real property at its true value and present use value

Authorized Changes to Real Property Value in Non-reappraisal Years N.C.G.S. §105-287(a)

- Correct clerical or mathematical errors
- Appraisal errors from misapplication of schedules
- Conservation or preservation agreements
- Physical changes to land or improvements *
- Changes in legally permitted use of property
- Other factors *

* Excludes changes listed in N.C.G.S. §105-287(b)

Unauthorized Changes to Real Property Value in Non-reappraisal Years N.C.G.S. §105-287(b)

- Normal physical depreciation of improvements
- Economic changes (inflation or deflation)
- Betterments
  - Painting
  - Terracing or landscaping
  - Forest fire protection
  - Impounding water for non-commercial purposes

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PERSONAL PROPERTY

Listing and Assessment

- All property is taxable unless exempted or excluded
- Includes all property that is not real
- List at historical cost
- NCDOR Cost Index and Depreciation Schedules
  - Factors applied to historical cost
  - Assessed value determined by replacement cost new less depreciation
  - Accepted by courts

Personal Property Appraisal N.C.G.S. §105-317.1(a)

- Replacement cost of property
- Sale price of similar property
- Age of property
- Physical condition of property
- Productivity of property
- Remaining life of property
- Effect of obsolescence on property
- Economic utility (usability) of property

Determining True Value N.C.G.S. §105-317.1(b)

Appraiser shall consider:

- Any information reflected on taxpayer's state or federal income tax returns
- Accuracy of taxpayer's records
- Taxpayer's method of accounting
- Taxpayer's level of trade

Personal Property Appeals N.C.G.S. §105-317.1(c)

- Appeal value, situs, or taxability to assessor
- Must file within 30 days of notice of value (bill)
- Assessor holds conference to hear evidence
- Taxpayer may sign agreement accepting value or assessor must mail notice of decision
- Taxpayer may appeal assessor decision to BOER within 30 days of notice of assessor's final decision

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DISCOVERY

Discovery N.C.G.S. §105-312

- Listing, assessment, and taxation of property not listed during the listing period
- Must send notice to taxpayer containing:
  - Name and address of discovered person/entity
  - Description of property
  - Tentative appraisal of property
  - Statement granting 30 days to appeal listing and appraisal

Discovered Property

Discovery Includes:

- Property listed after the listing period
- Property listed at understated value
- Property listed under an exemption or exclusion for which it did not qualify
- Unlisted property

Discovery N.C.G.S. §105-312

- Taxation
  - Taxed for current year and five preceding years
  - Tax computed at tax rate imposed for each year
- Penalties
  - 10% for earliest year not listed
  - Additional 10% for each subsequent listing period that elapsed before discovery
- Each year calculated separately

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Discovery Billing

Discovery Date: February 15, 2023 (No extension; No electronic listing)

Year	Value	Tax Rate	Tax Owed	Penalty	Penalty $	Total
2023	$300,000	$.50	$1,500	10%	$150	$1,650
2022	$200,000	$.60	$1,200	20%	$240	$1,440
2021	$300,000	$.70	$2,100	30%	$630	$2,730
2020	$400,000	$.50	$2,000	40%	$800	$2,800
2019	$300,000	$.50	$1,500	50%	$750	$2,250
2018	$200,000	$.50	$1,000	60%	$600	$1,600
Total:			$9,300		$3,170	$12,470

Power to Compromise N.C.G.S. §105-312(k)

- BOER may compromise, settle, or adjust discovery bills for any reason
- Tax must be billed and unpaid
- No statutory guidelines for ensuring power is applied equally
- NCDOR recommends BOER limit use of power or adopt written policies for uniform application
- Decision only reviewable by PTC if taxpayer demonstrates legal discrimination or bias by BOER

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TAXPAYER REMEDIES

Collection Delayed Pending Appeal N.C.G.S. §105-378(d)

- No enforced collection while under appeal to BOER or PTC
- Tax collector may send tax bill

Interest on Overpayments N.C.G.S. §105-360(e)

- When order of BOER causes overpayment, taxpayer entitled to interest
- Interest calculated at rate and dates established by N.C.G.S. §105-360(a)
- Accrues from later of date tax paid and delinquency date.

No Taxes to be Released, Refunded, or Compromised N.C.G.S. §105-380

- BOCC prohibited from releasing, refunding, or compromising all or any portion of tax except as authorized
- Unauthorized release, refund, or compromise will not affect tax lien or liability
- Unauthorized release, refund, or compromised tax may be recovered from member(s) voting for the release, refund or compromise through civil action

Taxpayer Remedies N.C.G.S. §105-381

- Valid defense
  - Tax imposed through clerical error
  - Illegal tax
  - Tax levied for illegal purpose
- Demand release/refund in writing to BOCC
- If paid, must demand refund:
  - Within 5 years of tax due date or
  - Within 6 months of payment date

Who may take action on request?

- Must be heard by governing body
- BOCC may only delegate authority for releases/refunds less than $100 to:
  - Finance officer
  - County manager
  - County attorney
- BOCC cannot delegate authority to BOER!

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QUESTIONS?

https://www.ncdor.gov/documents/appeals-manual

North Carolina Department of Revenue
Local Government Division
(919) 814-1129