RULES OF PROCEDURE FOR HEARING

Burke County Board of Equalization and Review – 2025

1. Definitions: As used herein:
    a. "Appraisal" means an analysis, opinion, or conclusion as to the value of the identified real estate, specified interests therein, or for personal property, for compensation or other valuable consideration. Under N.C. G.S. 105-283, 105-317 and others, county assessors are to list, appraise, and assess all real and personal property within the county jurisdiction. An "analysis, opinion, or conclusion as to the value" may be taken into consideration as a courtesy but not depended or relied upon in the final determination.
    b. "Appellant" means the person filing the appeal
    c. "Assessor" means the individual appointed by the Burke County Commissioners to the county assessor position as outlined in N.C.G.S. 105-294. The Assessor shall have the general charge of the listing, appraisal, and assessment of all property in the county and other powers and duties as set forth by applicable law. The Assessor may also be referred to as the Tax Administrator.
    d. "Board" means the Burke County Board of Equalization and Review appointed by the Burke County Commissioners.
    e. "Certified Appraiser" means a person who holds a current and valid certificate as a certified residential or general certified real estate appraiser issued under the provisions of N.C.G.S. Chapter 93E. These include but not limited to M.A.I (Member, Appraisal Institute), C.A.E (Certified Appraisal Evaluator).
    f. "Chair" means the chairman of the Board of Equalization and Review as designated by the Burke County Board of Commissioners.
    g. "Clerk" means the Assessor, or a person designated by the Assessor to record the proceedings for the Board.
    h. "Conflict of Interest" means a situation where a member of the Board has a personal or financial interest in the property under appeal because of family ties by blood, marriage, and/or for personal or professional relationships.
    i. "County" means Burke County.
    j. "Discovered Property," "Discover Property," and "Discovery," as shown in N.C.G.S. 105-273, means any of the following:
        i. Property that was not listed during a listing period.
        ii. Property that was listed, but the listing included a substantial understatement.
        iii. Property that has been granted an exemption or exclusion and does not qualify for the exemption or exclusion.
    k. "Licensed Residential Real Estate Appraiser" means a person who holds a current and valid license as a licensed residential real estate appraiser issued under the provisions of N.C.G.S Chapter 93E.
    l. "Owner" means the person who owns or controls the property under appeal. Such as a leasee responsible for the paying of property taxes on property leased.
    m. "Person" means any individual or entity as defined in N.C.G.S. 36C-1-103.
    n. "Quorum" means a majority of the members of the Board.
    o. "Taxpayer" means any "Person" who owns or controls property within the jurisdiction of Burke County and has a vested interest in property values in the "County."
    p. "Vice-Chair" means the person elected to serve as Vice-Chair by the Board from its membership.

2. The Board shall meet in accordance with Article 33C of Chapter 143 of the North Carolina General Statutes and all other applicable laws. The Board shall transact business only when a quorum is present.

3. The Board will conduct all hearings. Such hearings are considered quasi-judicial proceedings.

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4. All meetings of the Board shall be open to the public. Any person may attend the meetings. However, the Board may enter closed session from which the public is excluded on any of the grounds listed in N.C.G.S. 143-318.11. Aside from the Board's members themselves, only those individuals invited by the Board may participate in a closed session. The Board shall keep a general account of each closed session, providing someone not in attendance with a reasonable understanding of what transpired. Minutes and general accounts of closed sessions shall be sealed until unsealed by order of the Board or by instructions adopted by a competent authority. The sealed minutes and general account of any closed session may be withheld from public inspection, so long as public inspection would frustrate the purpose (s) of the closed session.

5. The Appellant will be notified in writing by the Clerk of the time and date of the appeal hearing at least three (3) weeks before the scheduled hearing.

6. Neither Owner nor the Appellant is to contact any member of the Board before the hearing concerning the merits of the case. No member of the Board should allow contact from or be in contact with any Appellant or Taxpayer concerning a case before the Board before the scheduled hearing or on the date of the hearing.

7. Hearings for individual appeals before the Board may only be rescheduled once by the Clerk for hardship reasons requested by the Owner, Taxpayer, or Appellant.

8. The Clerk shall be present at all meetings, shall maintain full and accurate minutes of the actions of the Board and shall give the Board such information as he or she may have or can obtain concerning the listing and valuation of taxable property in the County in general and with the property being appealed specifically. The Clerk shall, in coordination with the Assessor and/or the Chair, set the agenda for each daily session on which the Board will meet.

9. The Chair shall preside at the Board meetings. In the absence of the Chair, the Vice-Chair shall preside. If both the Chair and the Vice-Chair are absent, the Board shall designate one of the members present to serve as a temporary presiding officer. Any member who presides in place of the Chair shall have the same parliamentary authority and powers set forth herein as the Chair. To address the Board, the speaker must be recognized by the Chair.

10. The Chair shall have the following powers and authority:
    a. To rule on points of parliamentary procedure, including the right to rule out of order any motion offered for patently obstructive or dilatory purposes.
    b. To determine whether a taxpayer, other speaker, or person has gone beyond reasonable standards of courtesy in his or her remarks, to entertain and rule on objections from other members on these grounds, and to eject individuals from the hearing as necessary.
    c. To entertain and answer questions of parliamentary procedures
    d. To call a brief recess at any time, and
    e. To adjourn in an emergency.

11. The Board shall proceed by motion. Any member, including the Chair, may make a motion. A motion shall not require a second. A member may make only one motion at a time. A substantive motion is out of order while another substantive motion is pending. A motion may be withdrawn by the introducer at any time before the Chair puts the motion to a vote. A motion shall be adopted if approved by a majority of the members present, unless otherwise required by North Carolina law. Every member present shall vote unless excused by the remaining members of the Board.

12. Any member who wishes to be excused from voting shall inform the Chair, who shall take a vote of the remaining members on whether to grant the request. The Board may not excuse a member except in cases involving (1) Conflict of Interest or (2) the member's official conduct or own financial interest. The unexcused failure to vote by a member who is physically present in the meeting room or has withdrawn without being excused by a majority vote of the remaining members present shall be recorded as an affirmative vote.

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13. The Chair may state or restate a motion and then open the floor to debate, presiding according to these general principles:
    a. The member making the motion may speak first.
    b. The Chair shall have the right to participate in the debate.
    c. A member who has not spoken on the issue shall be recognized before someone who has already spoken.

14. In addition to substantive motions, the procedural motions listed below, and not others, shall be in order. Unless otherwise noted. Each motion is debatable, may be amended, and requires a majority vote for adoption. In order of priority (if applicable), the procedural motions are:
    a. To adjourn – (not debatable) – This motion may be made only after action on a pending matter has been taken. It may not interrupt deliberation of a pending matter.
    b. To recess – (not debatable).
    c. To Suspend the Rules – (not debatable)
    d. To Call the Previous Question – (not debatable). This motion is not in order until there have been at least ten (10) minutes of debate or until every Board member has had at least one opportunity to speak.
    e. To postpone to a certain time or day.
    f. To amend. An amendment to the motion must be relevant and germane to the subject of the motion. Amendments may not be used to reverse or achieve the opposite effect of the motion. There can be a motion, an amendment to the motion, and an amendment to the amendment, but no further amendments will be allowed.

15. Timely appeals for real estate may be submitted until the Board of Equalization and Review adjourns.

16. Timely appeals for personal property must be made within 30 days of the notification of the tentative value of the personal property or the discovery notice is mailed by the tax office.

17. If no notification is mailed before the tax bills are issued, the tax bill will serve as the notification. When a tax bill serves as notification, the appeal for personal property must be made within 30 days of the date of the tax bill.

18. Late applications for tax-exempt status or a tax exemption may be considered for good cause through the last working day of the calendar year in which the tax is levied. A late application for the exemption or exclusion received after the calendar year ends cannot be approved for any reason or circumstance in accordance with applicable law.

19. Determination of "good cause" is made on a case-by-case basis, considering all pertinent facts, circumstances, and information. Upon a showing of verifiable good cause by the applicant, an application for exemption or exclusion filed after the due date may be considered. Examples of good cause may include, without limitation:
    a. Physical or mental illness or disability that would reasonably affect the taxpayer's ability to apply timely.
    b. Death of the taxpayer or an immediate family member.
    c. Active-duty military deployment.

    Taxpayer's neglect, oversight, or lack of awareness regarding due dates will not constitute good cause for a late exemption or exclusion application. The burden of proving both verifiable good cause for the late application and eligibility for the requested exemption or exclusion lies with the Taxpayer.

20. Any Taxpayer may appeal the value, tax situs, or taxability of any property in the County if they are personally aggrieved by the specific situation of the property in question.

21. The Assessor's office shall notify Appellants that their appeal is untimely if it is postmarked, electronically submitted, emailed, or hand-delivered after the Board of E&R has adjourned for real estate or more than 30 days after the date of the discovery notice or the date of the tax bill, whichever is appropriate for personal property. These appeals do not have to be presented to the Board as they are considered untimely filed.

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22. Upon receipt of a revised valuation notice or a notice of no change in value resulting from an initial appeal by the Taxpayer, the Taxpayer has 15 days from the date of the notice to respond to the Assessor's office to continue the appeal to the Board of Equalization and Review. The Taxpayer's failure to respond within the prescribed period shall be considered prima facie evidence of the Taxpayer's acceptance of the revised valuation notice or the notice of no change in value, thus ending the Taxpayer's appeal. However, the Board may, at its discretion, determine if it is appropriate to hear the Taxpayer's case even if the Taxpayer failed to respond within the period outlined in this section, at the Taxpayer's request.

23. If an informal appeal from a Taxpayer results in a recommendation of an increase in value from the Assessor and the Appellant subsequently asks to withdraw the original appeal or disagrees with the Assessor's recommendation, the appeal must still be submitted to the Board for consideration and decision.

24. The Assessor may come to a resolution with a Taxpayer before the scheduled hearing. In this case, the appeal will be listed on the Board docket as "Consent Items" that is subject to Board approval.

25. State law presumes the Assessor's assessments are correct. This presumption places the burden on the Taxpayer to produce competent, material, and substantial evidence that shows (1) either an arbitrary method of valuation was used, (2) an illegal method of valuation was used, or (3) the assessment substantially exceeded the true value in money of the property. The failure of the Taxpayer to render such evidence may result in a ruling in favor of the Assessor. In such an instance, the Assessor may not be required to present their case.

26. The Appellant will provide six (6) copies of their data to be presented at the hearing to the County Tax Administration at least one week before the scheduled hearing.

27. When the case is called by the Chair, the Taxpayer shall be prepared to present the case. If the Taxpayer is unavailable when the case is called, the case will be placed at the end of the queue to be called again at the end of the day's session. If the Taxpayer is not present at the end of that day's session and has not been excused by the Clerk for hardship reasons before the hearing date, the case will be decided based on all timely evidence submitted. If the Taxpayer is excused, the hearing will be rescheduled.

28. The presentation will be as follows:
    a. The Taxpayer will state his or her name and mailing address for the record.
    b. The Clerk will make a brief opening statement, including the reason for the appeal.
    c. The Taxpayer will present his/her case supporting their opinion of value, followed by the County's presentation of its case.
    d. The Chair will determine the appropriate length of time for presentation by both the Taxpayer and the County based on the complexity of the case. The Chair may grant additional time to either party. (i.e., 5 minutes for the Taxpayer to present, 5 minutes for the County to present, and 5 minutes for questions or rebuttal.)
    e. The Taxpayer shall provide the Board and the Assessor's office with the basis of the appeal and supply all documentation supporting the value of the property as of January 1, 2023, which is the latest official reappraisal date for real estate. The valuation of personal property is based upon market value as of January 1 of the current tax year. All evidence relating to value must be as of these dates. Any evidence presented with an effective date after the proper date of valuation will be ineligible to be used as evidence.
    f. Any changes in the value of real property made by a decision of the Board shall be applicable for the tax year in which the appeal is filed and all subsequent years until the next county-wide reappraisal.
    g. Any changes in the value of personal property made by a decision of the Board shall be applicable only for the year in which the appeal is filed.
    h. Appeals for prior tax years may only be heard in conjunction with the requirements of N.C.G.S 105-286 and 105-287.

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i. Only owners or licensed residential or certified real estate appraisers licensed to do business in North Carolina may express an opinion of value of real property. No other person, whether attorneys-in-fact, attorneys at law, or corporate representatives, is entitled to express an opinion of value of real estate. (See North Carolina Appraisers Act, 93E-1.2.1)

j. Appraisals certified by a certified real estate appraiser or licensed residential real estate appraisers are admissible for consideration by the Board without the necessity of the appraiser being present, subject to rebuttal by the County. The Board may hear evidence from certified real estate appraisers or licensed residential appraisers regarding a comparative market analysis, which is the analysis of sales of similar recently sold properties to derive an indication of the probable sales price of the subject property. The Board may, in its discretion, hear evidence from other witnesses acquainted with the property regarding specific and factual information concerning the property.

k. For personal property, non-expert witnesses who have empirical knowledge of value gained from experience, information and observation may give an opinion of value.

l. If the Taxpayer has not provided any data supporting a change in value prior to the hearing:
    i. And they bring no evidence to the hearing, then the Assessor's value stands.
    ii. And they do bring evidence to the hearing, then the case may be rescheduled for a later date at the Board's discretion, allowing the Assessor's office time to review the materials.
    iii. Under no circumstances shall the Board table a Taxpayer's case solely for the Taxpayer to gather more information beyond the rescheduling allowed as outlined above. However, the Board may table an appeal based upon information the Taxpayer presents at the hearing itself.
    iv. If no data or evidence is supplied by the Taxpayer before the hearing and the taxpayer fails to avail themselves with the opportunity to present any evidence in person at the hearing, the Assessor's value stands with a notice entered into the official minutes that the Taxpayer failed to supply any evidence and failed to appear before the Board.

m. After the conclusion of the testimony phase of a hearing, the Board will deliberate. During the deliberation, the members of the Board should not ask questions of the Assessor's office unless the Taxpayer is also present and allowed to hear the additional information and provide an opportunity for rebuttal if necessary. The Board will discuss the merits of the appeal and arrive at a decision. If deemed appropriate by the Board, instead of making a decision, the Board may [table] a case for a future meeting date. The Taxpayer will be informed of the date to which the hearing is tabled, either by the Board in open session or through written notification from the Assessor's office.

29. In most instances, the Board will make its decision after the hearing. The Clerk will mail a "Notice of Decision" of the Board ruling to the Taxpayer or the taxpayer's representative within a reasonable time (typically within a week). The Taxpayer has the right to appeal the decision of the Board to the Property Tax Commission in Raleigh.

30. The Board may vote to amend these rules at any regular meeting or any properly called special meeting for the amendment of these rules is a stated purpose. Any amendment to these rules must not violate any relevant statutes or other applicable law.

31. To the extent not provided for in, and not conflicting with the spirit of these rules, the Chair shall refer to "*Suggested Procedural Rules for Local Appointed Boards*" to resolve procedural questions.

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