

# **RULES OF PROCEDURE FOR HEARINGS - 2012**

## **Mecklenburg County Board of Equalization and Review**

The following Rules of Procedure will govern hearings before the Mecklenburg County Board of Equalization and Review:

1. DEFINITIONS: As used herein:
  - i. "Ad Valorem Appraiser" means a person who holds a current valid certificate as a real property and/or personal property appraiser issued under the provisions of NCGS 105-296;
  - ii. "Appraisal" means an analysis, opinion or conclusion as to the value of the identified real estate or specified interests therein, or for personal property for compensation or other valuable consideration;
  - iii. "Assessor" means the Mecklenburg County Assessor;
  - iv. "Board" means the Board of Equalization and Review;
  - v. "Certified general real estate appraiser" means a person who holds a current, valid certificate as a certified general real estate appraiser issued under the provisions of NCGS 93E;
  - vi. "Certified residential real estate appraiser" means a person who holds a current, valid certificate as a certified residential real estate appraiser issued under the provisions of NCGS 93E;
  - vii. "Chairman" means the chairman of the Board;
  - viii. "Chairperson" means the chairman of each panel;
  - ix. "Clerk" means the Assessor or a deputy appointed by the Assessor to record proceedings for the Panels;
  - x. "Panel" or "Panels" mean separate panels of the Board consisting of three or more members of the Board who are hearing cases, or the full Board hearing cases;
  - xi. "Quorum" means a majority of the members of the Board or a Panel required in conducting substantive business;
  - xii. "Taxpayer" means the appealing party;
  - xiii. "Licensed residential real estate appraiser" means a person who holds a current, valid license as a licensed residential real estate appraiser issued under the provisions of NCGS 93E;
  - xiv. "Trainee", "registered trainee" or trainee real estate appraiser" means a person who holds a current, valid registration as a trainee residential real estate appraiser issued under the provisions of NCGS 93E.
2. The Taxpayer will be notified in writing by the Clerk of the time and date of the hearing. The taxpayer is not to contact any member of the Board prior to the hearing concerning the merits of the case.
3. Hearings before the Board of Equalization and Review will be rescheduled by the Clerk

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for hardship reasons and for matters involving court appearance only, when the Clerk is notified not less than 24 hours prior to the hearing date. The clerk may only consider as a hardship, medical illness, incapacitation, hospitalization or death of family member. You must provide the Clerk with proof of the hardship as evidenced by a notice from a physician for medical illness, incapacitation or hospitalization, or a death certificate or public notice of a death and sufficient documentation to show the family relationship.

All other reasons for rescheduling appeals must be reviewed and approved by the Board. The appellant must submit to the Clerk in writing a request for rescheduling by the Board. That request must be presented to the Clerk 48 hours prior to the date of the hearing. The request must contain a statement attesting the reason(s) why the appellant cannot appear on the appointed date for hearing. Upon receipt, the Clerk will provide the request to the Board for review on the date of the hearing. After reviewing the request the Board will decide whether the reasons for the request show sufficient hardship to warrant a rescheduling. If the Board accepts the reasons for the rescheduling and approves a reschedule, the appeal will be placed on a future calendar for hearing. If the Board denies the rescheduling request, the Board will hear the appeal in the absence of the appellant based on timely filed evidence previously provided and will make a decision on the matter. The appellant assumes full responsibility to appear at the scheduled date for the hearing.

4. Any Taxpayer who owns or controls property taxable in the County can appeal his/her/its property values (real or personal) or the values of property owned by others. Individual owners can represent themselves. Joint owners can be represented by one of the owners. Partnerships, corporations and limited liability companies can appoint an officer, manager, employee or co-partner to represent them without signing a power of attorney. Any property owner can designate a tax representative or any other person or entity as attorney-in-fact under a Power of Attorney in the form prepared by the Board, to represent them. Licensed attorneys at law can represent any party without a signed power of attorney. All notices delivered by the Board or the Assessor regarding the appeal will be mailed to the person filing the appeal, unless otherwise designated by the Taxpayer.
5. The hearing will be conducted by the Board or by a Panel. A decision by a Panel constitutes a decision of the Board.
6. If a quorum is not present on the hearing date, the Taxpayer and the Assessor may agree by mutual consent that the hearing may be conducted without a quorum and that the decision of the members present will be the decision of the Panel to the same extent as if a quorum were present. If there is a tie vote, or if the Taxpayer refuses to have the hearing conducted by less than a quorum, the hearing will be rescheduled to be heard by another Panel. A majority vote of the quorum constitutes a decision of the Panel.
7. When the case is called by the Chairperson, 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 agenda and will be called again at the end of the session. **If the Taxpayer is not present at the end of the session and has not been excused by the Clerk for hardship reasons prior to the hearing date, the case will be decided based on the basis of all timely provided evidence submitted.** If the Taxpayer is excused, the hearing will be rescheduled.
8. Presentation will be as follows:
  - a. The Taxpayer will state his or her name for the record.
  - b. The Clerk will make a brief opening statement setting forth the contentions of the parties.

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- c. The Taxpayer will present his/her case supporting the opinion of value, followed by the County's presentation of its case.
  - d. The Chairperson will determine the appropriate length of time for presentations by both the Taxpayer and the County based on the complexity of the case. The Chairperson may grant additional time to either party.
  - e. **When the notice of appeal is filed, the Notice of Appeal of Assessment form for real property, or for business personal property, or for individual personal property supplied by Board must be completed and all exhibits attached at the time of filing or no later than 30 days from the date of the hearing letter. The taxpayer shall provide the Board and the Assessor's office with the basis of the appeal and supply all documentation supporting that basis. The tax valuation of real property is based upon the market value of the property as of January 1, 2011, which is the latest official reappraisal date. 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 those dates. Any changes in the value of real property made by the Board shall be applicable for the tax year in which the appeal is filed and for subsequent years until reappraised by the Assessor. Any changes in the value of personal property made by the Board shall be applicable only for the tax year for which the appeal is filed.**
  - f. Only individual taxpayers or certified appraisers licensed to do business in North Carolina may express an opinion of value of real property. No other persons, whether attorneys-in-fact, attorneys at law or corporate representatives are entitled to express an opinion of value of real property. Appraisals certified by a licensed real estate appraiser are admissible for consideration by the Panel without the necessity of the appraiser being present, subject to rebuttal by the Assessor. The Board may hear evidence from licensed real estate brokers regarding a comparative market analysis, which is the analysis of sales of similar recently sold properties, in order 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 factual information concerning the property. Non-expert witnesses who have knowledge of value gained from experience, information and observation may give an opinion of value of personal property.
9. In most instances the Panel will make its decision at the conclusion of the hearing and the Clerk will mail notice of the decision to the Taxpayer or the Taxpayer's representative within a reasonable time after the hearing. The Taxpayer will have the right to appeal the decision to the Property Tax Commission within 30 days after the date the Board mailed its decision to the Taxpayer or the Taxpayer's representative.
  10. State law presumes that assessments are correct. This presumption places the burden on the Taxpayer to "produce competent, material and substantial evidence that tends to show : (1) Either the county tax supervisor used an arbitrary method of valuation; or (2) the county tax assessor used an illegal method of valuation; and (3) the assessment substantially exceeded the true value in money of the property." (*In re Appeal of Amp, Inc.*, 287 NC 547 at 563 (1975)).

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The failure of the Taxpayer to render such evidence will result in a ruling in favor of the Assessor.

11. In non-revaluation years, there is a higher burden of proof for a Taxpayer than in a revaluation year. In a non-revaluation year, it is not sufficient for a Taxpayer to prove the elements set forth in paragraph 10 above in order to obtain an adjustment in value. A reduction in value in a non-revaluation year can only be justified for the following reasons:
- a. To correct a clerical or mathematical error; or
  - b. To correct an appraisal error resulting from a misapplication of the schedules, standards and rules used in the county's most recent valuation; or
  - c. To recognize an increase or decrease in the value of the property resulting from a conservation or preservation agreement; or
  - d. To recognize an increase or decrease in the value of the property resulting from a physical change in the land or to the improvements on the land; or
  - e. To recognize an increase or decrease in the value of the property resulting from a change in the legally permitted use of the property; or
  - f. To recognize an increase or decrease in the value resulting from a factor other than normal physical depreciation of the improvements; inflation, deflation or other economic changes affecting the County in general; or betterments to the property made by repainting, terracing, landscape gardening or protecting forests against fire or impounding water for non-commercial purposes.

The taxpayer must produce competent, material and substantial evidence of the above before the Board will consider a change in the value of the property.

APPROVED: May 7, 2012.



Jim Barnett, Chairman  
BOARD OF EQUALIZATION AND REVIEW

c/o Mecklenburg County Assessor  
700 E. Stonewall Street, Suite 302  
P. O. Box 31127  
Charlotte, NC 28231

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