

COMPLAINT AGAINST THE VALUATION OF REAL PROPERTY

ANSWER ALL QUESTIONS AND TYPE OR PRINT ALL INFORMATION
READ INSTRUCTIONS BELOW BEFORE COMPLETING FORM
ATTACH ADDITIONAL PAGES IF NECESSARY

TAX YEAR _____

ORIGINAL COMPLAINT

COUNTY _____

COUNTER-COMPLAINT

NOTICES WILL BE SENT ONLY TO THOSE NAMED BELOW

Name

Street Address, City State, Zip Code

1) Owner of Property

2) Complainant if not owner

3) Complainant's agent

4) Telephone number of contract person ()

5) Complainant's relationship to property if not owner

If more than one parcel is included, see "Multiple Parcels" in instructions

6) Parcel number from tax bill

Address of Property

7) Principal use of property:

8) The increase or decrease in taxable value sought. Counter-complaints supporting auditor's value may have zero in Column D

| Parcel Number | Complainant's Option of Value | | Column C Current Taxable Value (From Tax Bill) | Column D Change in Taxable Value (+ or -) (Col. B minus Col. C) |
|---------------|---|--|--|---|
| | Column A True Value (Fair Market Value) | Column B Taxable Value (35% of Column A) | | |
| | | | | |
| | | | | |
| | | | | |

9) The requested change in value is justified for the following reasons:

10) Was property sold within the last 3 years? Yes No Unknown If yes, show date of sale _____ and sale price \$ _____ ; and attach information explained in "Instructions for Question 10".

11) If property was not sold but was listed for sale in the last 3 years, attach a copy of listing agreement or other available evidence.

12) If any improvements were completed in the last 3 years, show date _____ and total cost \$ _____

13) Do you intend to present the testimony or report of a professional appraiser? Yes No Unknown

14) If you have filed a prior complaint on this parcel since the last reappraisal or update of property values in the county, the reason for the valuation change requested must be one of those below. Please check all that apply and explain on attached sheet. See R.C. 5715.19(A)(2) for a complete explanation.

The property was sold in an arm's length transaction;

The property lost value due to a casualty;

A substantial improvement was added to the property;

Occupancy change of at least 15% had a substantial economic impact on the property.

I declare under penalties of perjury that this complaint (including any attachments) has been examined by me and to the best of my knowledge and belief is true, correct and complete.

Date _____ Complainant or Agent _____ Signature _____ Title (If Agent) _____

Sworn to and signed in my presence, this _____ day of _____ Year _____

Notary Public

INSTRUCTIONS FOR COMPLETING FORM

FILING DEADLINE: A COMPLAINT FOR THE CURRENT TAX YEAR MUST BE RECEIVED BY THE COUNTY AUDITOR ON OR BEFORE MARCH 31 OF THE FOLLOWING TAX YEAR. A COUNTER-COMPLAINT MUST BE FILED WITHIN 30 DAYS AFTER RECEIPT OF NOTICE FROM THE AUDITOR THAT AN ORIGINAL COMPLAINT HAS BEEN FILED.

WHO MAY FILE: Any person owning taxable real property in the county, the board of county commissioners, the county prosecutor, the county treasurer, the board of township trustees of any township with territory in the county, the board of education of any school district with territory in the county, or the mayor or legislative authority of any municipal corporation with territory in the county may file a valuation complaint

TENDER PAY: If the owner of a property files a complaint against the valuation of that property, then, while such complaint is pending, the owner is entitled to tender to the county treasurer an amount of taxes based on the valuation claimed for such property in the complaint. NOTE: If the amount tendered is less than the amount finally determined, interest will be charged on the difference. In addition, if the amount finally determined equals or exceeds the amount originally billed, a penalty will be charged on the difference between the amount tendered and the final amount.

MULTIPLE PARCELS: Only parcels that (1) are in the same taxing district and, (2) have identical ownership **may** be included in one complaint. Otherwise, separate complaints **must** be used. However, for ease of administration, parcels that (1) are in the same taxing district, (2) have identical ownership, and (3) form **a single economic unit should be included in one complaint.** The increase or decrease in valuation may be separately stated for each parcel or listed as an aggregate sum for the economic unit. If more than three parcels are included in one complaint, use additional sheets of paper.

GENERAL INSTRUCTIONS: Valuation complaints must relate to the **total value** of both land and buildings. The Board of Revision may increase or decrease the total value of any parcel included in a complaint. The Board will notify all parties not less than ten days prior to the hearing of the time and place the complaint will be heard. The complainant should submit any documents supporting the claimed valuation to the Board prior to the hearing. The Board may also require the complainant and/or owner to provide the Board additional information with the complaint and may request additional information at the hearing, including purchase and lease agreements, closing statements, appraisal reports, construction costs, rent rolls, and detailed income and expense statements for the property.

Section 5715.19(G) provides that “a complainant shall provide to the Board of Revision all information or evidence within his knowledge or possession that affects the real property” in question. Evidence or information that is not presented to the Board cannot later be presented on any appeal, unless good cause is shown for the failure to present such evidence or information to the Board.

INSTRUCTIONS FOR QUESTION 10: If property was sold in the last three years, attach the purchase agreement, escrow statement, closing statement, or other evidence if available. If the buyer and seller were or are related or had any common business interests, attach an explanation. If any other items of value were included with the sale of the real estate, attach a description of those items. Show the value of those items and explain how the values were determined.

NOTICE: R. C. 5715.19, as amended by H. B. 694, effective March 30, 1999, added some additional persons who may file a valuation complaint. Those additional persons are (1) the owner’s spouse, (2) an appraiser who holds a designation from a professional assessment organization retained by the owner, (3) a licensed public accountant, a licensed general or residential real estate appraiser, or a licensed real estate broker retained by the owner, (4) an officer, salaried employee, partner, or a member of an owner, if the owner is a firm, company, association, partnership, limited liability company, or corporation, and (5) a trustee, if the owner is a trust. Since that statute has been declared to be unconstitutional by an Ohio court of appeals, the Board of Tax Appeals and many county Boards of Revision have been dismissing complaints filed by those individuals, if they are not attorneys at law. Please be advised that if you choose a nonattorney to prepare and file your complaint, it will be subject to dismissal and may not be heard on its merits.

BOARD OF REVISION RULES OF PROCEDURE

The Board of Revision hereby enacts the following as its Rules of Procedure pursuant to the Ohio Revised Code (ORC) 5715.02 et seq. and HB294 § 323.66

I. NOTICE

- A. The County Auditor, as Secretary of the Board of Revision, shall give notice of each complaint in which the stated amount of increase or decrease is at least \$17,500 to each board of education whose school district may be affected by the complaint. [ORC 5715.19 (B)]
- B. Within thirty (30) days after receiving such notice, a board of education may file a counter-complaint in support of, or objecting to, the amount of increase or decrease in value as stated on the original complaint [ORC 5715.19 (B)]. The board of education filing a counter-complaint is requested by the Board of Revision to provide service to the original complaining party.
- C. Upon filing a counter-complaint, the board of education shall be made a party to the complaint.
- D. If the board of education files the original complaint, the owner shall be notified and shall automatically be made a party to the complaint.

II. HEARING NOTICES AND RESCHEDULES

- A. The County Auditor, as Secretary of the Board of Revision, shall schedule complaints for hearing.
- B. A written notice stating the date, time, and place of the hearing shall be sent by certified mail to all parties of the complaint (if address is known) not less than ten (10) days prior to the hearing.
- C. Along with the notice a copy of these rules shall be provided to each party of the complainant.
- D. The Board of Revision shall grant one (1) request for a reschedule of the hearing date from the original complainant and the counter-complainant. This request for reschedule shall be in writing (include telephone number), either mailed to, or faxed to the County Auditor so it arrives in the County Auditor's office at least five (5) days prior to the scheduled hearing date.
- E. For good cause the Board of Revision may reschedule another hearing date provided reasonable notice is given.
- F. The party requesting the reschedule shall notify all parties affected by the request, and all parties and their attorneys shall mutually agree upon the reschedule request before the request shall be granted.
- G. All hearings shall be open to the public.
- H. Failure to appear before the Board of Revision at the scheduled hearing time and date shall constitute failure to prosecute and is grounds for dismissal of the party's complaint.

III. APPEARANCE BEFORE THE BOARD OF REVISION

- A. Any person who is a party to the complaint may appear.
- B. Attorneys representing a party to the complaint shall not be permitted to testify or appear in any capacity other than that of counsel. The owner of the property, or an appropriate expert witness, is required to be present in order for testimony to be given.

IV. WITNESSES AND TESTIMONY

- A. The Board of Revision may call persons before it and examine them under oath as to their own or another's real property to be placed on the tax list and duplicate for taxation, or the value thereof. [ORC 5715.10]
- B. If a person notified to appear before the Board of Revision refuses, or neglects to appear at the time required, or appearing refuses to be sworn or answer any question put to him/her by the Board or by its order, the Board of Revision shall make a complaint thereof in writing to the probate judge of the county. [ORC 5715.10]
- C. Any witness, who shall be giving expert testimony on the complaint, must be qualified as an expert [Ohio Rules of Evidence #702 and #703].
- D. Testimony as to comparable properties, their values, and recent sales values shall be considered expert testimony, and may only be presented by expert witnesses properly qualified as provided herein. Mere testimony that a certain property was transferred on a certain date for a certain price may be submitted to the Board of Revision in the form of certified copies of transfer deeds, or through any other acceptable form of evidence contemplated under Ohio Rules of Evidence. However, the Board of Revision shall not consider them as comparable sales without expert opinion testimony indicating how they are comparable.
- E. A complainant party's attorney may not appear in lieu of the owner to provide testimony. The owner's opinion of value may only be expressed by the owner, or an appropriate expert witness.

V. HEARSAY EVIDENCE

- A. Hearsay evidence is a statement by one person as to what another person says or thinks. Any testimony must be relative and drawn from a person with actual and personal knowledge of these matters in order to present this evidence before the Board of Revision.
- B. The Board of Revision shall not accept hearsay evidence in the form of documents or oral testimony concerning:
 - 1. the terms and conditions of a sale or the motives of the parties to the sale
 - 2. the owner's opinion of the value of the property offered by someone other than the owner
 - 3. financial data
 - 4. the condition or operations of the property

VI. SUBMITTING EVIDENCE TO THE BOARD OF REVISION

- A. A party to the complaint intending to introduce evidence involving expert opinion shall file with the Board of Revision a summary of that opinion and a summary of the expert's qualifications at least five (5) days prior to the time of the hearing on the complaint.
- B. If an appraiser will testify, a copy of the appraisal shall be filed at least five (5) days prior to the time of the hearing. A copy of the appraisal shall be served upon other parties to the complaint at least five (5) days prior to the time of the hearing.
- C. For income-producing, commercial or industrial property the Board of Revision requests the following information shall be submitted to the Board of Revision.
 1. Physical data
 - a) A description of the improvements to the property, including age, construction, size, mechanical equipment, use and functional adequacy.
 - b) Any changes in the condition of the property occurring or completed within the last three (3) years (such as new construction) together with the actual cost of any new improvements and the date completed.
 2. Rental property
 - a) Provide a financial statement detailing all income, actual operating expenses, fixed expenses, replacement reserves, and rental losses due to vacancy and uncollectable accounts for the tax year in question and for the prior three (3) years or back to the last transfer of ownership, if transferred within the past three (3) years.
 - b) Give the identity and description (include size and type) of each rental unit.
 - c) Provide the current rent roll showing potential rent.
 - d) Provide the lease or rental date for each tenant and the lease terms, options, base rent plus provisions for additional rent or service charges, etc.
 - e) List all other income, such as parking, laundry, etc.
 3. Other information
 - a) Provide current zoning status of property.
 - b) Provide a sketch, map and floor plan of the buildings (not required for apartments).
- D. The Board of Revision may request additional information at the hearing or by written notice.
- E. The complainant shall provide the Board of Revision all information or evidence within his/her knowledge or possession that affects the real property in question [ORC 5715.19]. Evidence and/or information not presented to the Board of Revision cannot later be presented on any appeal, unless good cause is shown for the failure to present such information to the Board of Revision.

VII. INDEPENDENT OR APPRAISER EXPERTS

- A. All agents (or other representatives) presenting evidence to the Board of Revision shall submit a copy of their contract with the owner as a part of the evidence of the case.
- B. Any individual relying on a document prepared by an independent appraiser or expert witness shall require that individual to be present at the hearing to testify before the Board of Revision. The Board of Revision shall not rely solely on the document itself, and may question the individual regarding the appraisal or exhibits, which have been submitted.
- C. Any document submitted as evidence, other than those stated herein, that was prepared by an individual not present at the hearing may not be considered unless the individual can be questioned by the Board.

VIII. EVIDENCE OF VALUATION

- A. Evidence of valuation must relate to the total value of both land and improvements. The over-assessment of land, if not accompanied by an under-assessment of buildings in like amount, shall not justify a reduction.
- B. The Board of Revision may increase or decrease the total value of any parcel included in a complaint.
- C. The owner's opinion of value, if unsupported by facts, shall not be considered competent evidence before the Board of Revision.

IX. RECORD

- A. The Board of Revision creates a formal record of the activities that take place before it.
- B. Each hearing's minutes are taken either using a tape recording system or a court stenographer.
- C. A transcript of the hearing is available at the cost of either reproducing the tape recording or the cost of obtaining the transcript from the court stenographer.

X. COMMON GROUNDS FOR DISMISSAL

- A. A complaint for the current tax year shall be filed with the County Auditor on or before the thirty-first (31st) day of March of the ensuing tax year [ORC 5715.19 (A)(1)].
- B. ORC 5715.19 (A)(2) states, "No person, board, or officer shall file a complaint against the valuation or assessment of any parcel that appears on the tax list if it filed a complaint against the valuation or assessment of that parcel for any prior tax year in the same interim period, unless the person, board, or officer alleges that the valuation or assessment should be changed due to one or more of the following circumstances that occurred after the tax lien date for the tax year for which the prior complaint was filed and that the circumstances were not taken into consideration with respect to the prior complaint:
 1. The property was sold in an arm's length transaction, as described in section 5713.03 of the Revised Code;
 2. The property lost value due to some casualty;
 3. Substantial improvement was added to the property;
 4. An increase or decrease of at least 15% in the property's occupancy has had a substantial economic impact of the property."
- C. Failure to complete or show value information for board of education notice in Section 8 on DTE Form 1 [Supreme Court case Cleveland Electric Illumination Company v. Lake County Board of Revision].

- D. Any complainant party not providing information deemed to be competent and relevant which is requested by the Board of Revision [ORC 5715.19 (G)].
- E. The signature on the complaint must be that of the owner of the property, an attorney, the general partner of a partnership or officer of a corporation. (See XI. Who Can Sign The Complaint)

XI. WHO CAN SIGN THE COMPLAINT

- A. The preparation, signing, and filing of a complaint on behalf of another person constitutes the practice of law.
- B. The signature on the complaint must be the owner of the property, an attorney, or the general partner of a partnership. [Ohio Supreme Court Sharon Village Limited v. Licking County Board of Revision (1997), 78 Ohio St. 3d 478, and Worthington City School District Board of Education v. Franklin County Board of Revision (1999), 85 Ohio St. 3d 156, and the decision of the Court of Appeals for the Eighth Judicial District in C.R. Truman, L.P. v. Cuyahoga County Board of Revision (July 27, 2000), Cuyahoga App. No. 76713, unreported, discretionary appeal denied April 11, 2001]
- C. A non-attorney corporate officer may prepare and file a complaint with a Board of Revision on behalf of the corporation. The officer cannot make legal arguments, examine witnesses or undertake any other tasks that can be performed only by an attorney. [Dayton Supply & Tool Co., Inc. v. Montgomery County Board of Revision, 111 Ohio St.3d 367, 2006-Ohio-5852]
- D. An attorney shall sign the complaint for a trustee of a trust, a managing partner of a limited partnership, a limited liability corporation (LLC), a person who has power of attorney, an executor of an estate, or a school district. The attorney must also appear at the hearing to examine witnesses.