# *For Educational Purposes Only:*

*The material within is intended to give the course participant a solid understanding of general principles in the subject area. As such, the material may not necessarily reflect the official procedures and policies of the Georgia Department of Revenue or the Department's official interpretation of the laws of the State of Georgia. The application of applicability to specific situations of the theories, techniques, and approaches discussed herein must be determined on a case-by-case basis.*

# Appeal Process

# Appeal Process

**Mark Loyd**
**Georgia Certification Manager**
**mark.loyd@dor.ga.gov**
**404-290-0172**

# Appeal Process

**Tracy Thomas**
**Business Analyst**
**tracy.thomas@dor.ga.gov**
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# Appeal Process

**Brian Walker**

**Legal Affairs and Tax Policy**

**brian.walker@dor.ga.gov**

**404-417-6678**

# *48-5-311(o)*



- When a taxpayer authorizes an agent, representative, or attorney in writing to act on the taxpayer's behalf, and a copy of such written authorization is provided to the county board of tax assessors, all notices required to be provided to the taxpayer under this Code section, including those regarding hearing times, dates, certifications, notice of changes or corrections, or other official actions, shall be provided to the taxpayer and the authorized agent, representative, or attorney.

# *48-5-311(o)*



- The failure to comply with this subsection with respect to a notice required under this Code section shall result in the tolling of any deadline imposed on the taxpayer under this Code section with respect to that notice.

*48-5-306*

# Notice of Assessment

# Georgia

# 48-5-306

PT-306 (revised Jan 2016)

Lowndes County Board of Assessors
P.O. Box 1126
302 N Patterson Street
First Floor
Valdosta GA 31603-1126
(229)671-2540

## Official Tax Matter - 2014 Tax Year

This correspondence constitutes an official notice of ad valorem assessment for the tax year shown above.

**Annual Assessment Notice Date: 01/21/2016**

**Last date to file a written appeal: 03/06/2016**

*** This is not a tax bill - Do not send payment ***

County property records are available online at: qpublic.net/ga/lowndes

ALLEN TROY M
2209 SOUTH SHERWOOD DRIVE
P O BOX 2816
VALDOSTA GA 31602-1602

**A**

The amount of your ad valorem tax bill for the year shown above will be based on the Appraised (100%) and Assessed (40%) values specified in BOX 'B' of this notice. **You have the right to submit an appeal regarding this assessment to the County Board of Tax Assessors.** If you wish to file an appeal, you must do so in writing no later than 45 days after the date of this notice. If you do not file an appeal by this date, your right to file an appeal will be lost. Appeal forms which may be used are available at http://dor.georgia.gov/documents/property-tax-appeal-assessment-form.

At the time of filing your appeal you must select one of the following appeal methods:

(1) County Board of Equalization (value, uniformity, denial of exemption, or taxability)
(2) Arbitration (value)
(3) County Hearing Officer (value or uniformity, on non-homestead real property or wireless personal property valued, in excess of $750,000)

All documents and records used to determine the current value are available upon request. For further information regarding this assessment and filing an appeal, you may contact the county Board of Tax Assessors which is located at P.O. Box 1126 302 N Patterson Street First Floor Valdosta, GA 31603-1126 and which may be contacted by telephone at: (229) 671-2540. **Your staff contacts are JOHN APPRAISER and JANE APPRAISER.**

Additional information on the appeal process may be obtained at http://dor.georgia.gov/property-tax-real-and-personal-property

**B**

| Account Number | Property ID Number | Acreage | Tax Dist | Covenant Year | Homestead |
|---|---|---|---|---|---|
| 18671 | 0002 001 | 327.21 | 02 | FLPA:2013 | Yes-50 |

| | |
|---|---|
| Property Description | |
| Property Address | 2209 SOUTH SHERWOOD DRIVE RD |

| | Taxpayer Returned Value | Previous Year Fair Market Value | Current Year Fair Market Value | Current Year Other Value |
|---|---|---|---|---|
| 100% Appraised Value | 0 | 404,324 | 246,268 | 199,480 |
| 40% Assessed Value | 0 | 161,730 | 98,507 | 79,792 |

**Reasons for Assessment Notice**

Conservation Use Covenant Application Denied; ACC TEST; MORATORIUM VALUE LIFTED; New Accessory Improvement added.; Value adj for 1-year Arms Length Transaction cap;

**C**

The estimate of your ad valorem tax bill for the current year is based on the previous or most applicable year's net millage rate and the fair market value contained in this notice. The actual tax bill you receive may be more or less than this estimate. This estimate may not include all eligible exemptions.

| Taxing Authority | Other Exempt | Homestead Exempt | Net Taxable | Millage | Estimated Tax |
|---|---|---|---|---|---|
| COUNTY | 20608 | 0 | 77,899 | 7.310000 | 569.44 |
| COUNTY SCHOOL | 20608 | 0 | 77,899 | 14.700000 | 1,145.12 |
| INDUSTRIAL | 20608 | 0 | 77,899 | 1.000000 | 77.90 |
| PARKS | 20608 | 0 | 77,899 | 1.250000 | 97.37 |
| | | | | Total Estimated Tax | 1,889.83 |

# *48-5-306(b)(2)(A)*



## Options for appeal

**Code section states that arbitration decision may not be appealed to superior court.**

(i) An appeal to the county board of equalization with appeal to the superior court;

(ii) To arbitration without an appeal to the superior court; or

(iii) For a parcel of nonhomestead property with a fair market value in excess of $750,000.00, or for one or more account numbers of wireless property as defined in subparagraph (e.1)(1)(B) of Code Section 48-5-311 with an aggregate fair market value in excess of $750,000.00, to a hearing officer with appeal to the superior court.

**48-4-311(f) allows arbitration decision to be appealed to superior court**

# *48-5-306(b)(2)(A)*



## Options for appeal

### New criteria for property appealed to Hearing Officer

(i) An appeal to the county board of equalization with appeal to the superior court;

(ii) To arbitration without an appeal to the superior court; or

**(iii) For a parcel of nonhomestead property with a fair market value in excess of $750,000.00, or for one or more account numbers of wireless property as defined in subparagraph (e.1)(1)(B) of Code Section 48-5-311 with an aggregate fair market value in excess of $750,000.00, to a hearing officer with appeal to the superior court.**

# *48-5-306(b)(2)(B)*

## Estimated Taxes

Annual assessment notice to include statement indicating estimate of tax bill based on previous **or most applicable** year's millage rate.

The estimate of your ad valorem tax bill for the current year is based on the previous or most applicable year's net millage rate and the fair market value contained in this notice. The actual tax bill you receive may be more or less than this estimate. This estimate may not include all eligible exemptions.

| Taxing Authority | Other Exempt | Homestead Exempt | Net Taxable | Millage | Estimated Tax |
|---|---|---|---|---|---|
| | | | | | |
| COUNTY | 20608 | 0 | 77,899 | 7.310000 | 569.44 |
| COUNTY SCHOOL | 20608 | 0 | 77,899 | 14.700000 | 1,145.12 |
| INDUSTRIAL | 20608 | 0 | 77,899 | 1.000000 | 77.90 |
| PARKS | 20608 | 0 | 77,899 | 1.250000 | 97.37 |
| | | | | Total Estimated Tax | 1,889.83 |

# *48-5-306(d)(1)*



## Request for assessment information

- Notwithstanding the provisions of Code Section 50-18-71, in the case of all public records and information of the county board of tax assessors pertaining to the appraisal and assessment of real property:

- (1) The taxpayer may request, and the county board of tax assessors shall provide within ten business days, copies of such public records and information, including, but not limited to,
- a description of the ***methodology*** used by the board of tax assessors in setting the property's fair market value,
- all documents reviewed in making the assessment, the address and parcel identification number of all real property utilized as qualified comparable properties, and all factors considered in establishing the new assessment,
- at a uniform copying fee not to exceed 25¢ per page

# *48-5-306(d)(3)(A)*

## Request for assessment information

- ✓ **Superior courts shall have jurisdiction to enforce compliance**
- ✓ **either party acted without substantial justification either in not complying with this subsection or in instituting the litigation**
- ✓ **reasonable attorney's fees and other litigation costs reasonably incurred**

# *48-5-311(e)(1)(A.1)&(B.3)*

## Assertion of Value

**Appeal form established by the commissioner shall require the initial assertion of a valuation of the property by the taxpayer.....may be later amended or revised by submission of written evidence to the Board of Assessors**

**Specify Grounds for Appeal:**

| *Check all that apply* | |
|---|---|
| Value | |
| Uniformity | |
| Taxability | |
| Exemption Denied | |
| Breach of Covenant | |
| Denial of Covenant | |

| | |
|---|---|
| *Owner's value assertion (required)* | |

**You must select only one of the following options:**

| | |
|---|---|
| | BOE:appeal to the county board of equalization with appeal to the superior court (*any / all grounds*) |
| * | ARBITRATION: to arbitration with an appeal to the superior court (valuation is only grounds that may be appealed to arbitration) |
| | HEARING OFFICER: for (1) nonhomestead real property (and contiguous real property) or (2) wireless personal property account(s) with a FMV in excess of $750,000, to a hearing officer with appeal to superior court (value and uniformity only) |
| * | SC: Directly to Superior Court (requires consent of BOA) (any / all grounds) |

* Additional Cost / Fees May apply

# *48-5-311(e)(1)(B.1)*

## Taxpayer submitted appraisal

- *Taxpayer may submit an **appraisal** certified by a real property appraiser classified by the Georgia Real Estate Commission and the Georgia Real Estate Appraisers Board performed not later than **nine months prior** to date of assessment*

- *Board of Assessors has 45 days from receipt of appraisal to notify taxpayer or representative of the acceptance or rejection of appraisal*
- **If rejected must state reason for rejection**

# *48-5-311(e)(1)(B.2)*

**Taxpayer can submit in support of appeal most current report of sales ratio study pursuant to Code Section 48-5-274 and tax assessors shall consider such sales ratio study upon request of the taxpayer**

DEPARTMENT OF AUDITS AND ACCOUNTS

SALES RATIO DIVISION

2013 SALES RATIO STUDY

001 - APPLING COUNTY

**No requirement for response**

# *48-5-311(e)(1)(B.4)*



## Consolidation of Appeals

*If more than one property of a taxpayer is under appeal, the board of equalization, arbitrator, or hearing officer, as the case may be, shall, upon request of the taxpayer, consolidate all such appeals in one hearing and shall announce separate decisions as to each parcel or item of property*

**Being contiguous not required**

# *48-5-311(e)(1)(B.4)*

## Consolidation of Appeals

- *shall announce separate decisions as to each parcel or item of property*

- *Any appeal from such a consolidated hearing to the superior court …….shall constitute a single civil action and, unless the taxpayer specifically so indicates in the taxpayer's notice of appeal, shall apply to all such parcels or items of property.*

# *48-5-311(e)(1)(A)*

## *Who?*

**- Any taxpayer or property owner as of the last date for filing an appeal may elect to file an appeal from an assessment ……**

## *When?*

**- filing with the county board of tax assessors a notice of appeal within *45 days* from the date of mailing the notice**

Georgia Department of Revenue

# Board of Equalization

# *48-5-311(e)(1)(A)(i)*



**Matters appealable to the Board of Equalization**

- ***Value***
- ***Uniformity of assessment***
- ***Taxability***
- ***Denial of homestead exemptions***
- ***Denial of Covenant***
- ***Breach of Covenant***
- ***Denial of Freeport***

# *48-5-311(e)(2)(C)*

## New 30 day form!

The commissioner shall develop and make available to county boards of tax assessors a suitable form which shall be used in such notification to the taxpayer

# *48-5-311(e)(3)(A)*

- **Upon receipt of appeal to BOE**
  - **Beginning of the 180 day review period**
- **Must notify the taxpayer of any changes or corrections within 180 days, or**
- **If BOA fails to act in timely manner, taxpayers asserted value (Return or Notice of Appeal) shall become the final fair market value**
- **No Assertion of Value – Appeal forwarded to BOE**

# *48-5-311(e)(3)(B)*

## 180 Extension

3% or more of total number of parcels under appeal

**Or**

Current assessed value of parcels under appeal equal to or greater than 3% of gross tax digest

**Board of assessors shall be granted an additional 180 days to make its determinations**

# *48-5-311(e)(3)(B)*

**BOA shall notify each affected taxpayer of the additional 180 day review period by mail or electronic communication, including posting notice on the website.**

**DOR does not certify that 3% level has been reached only post on website that county has declared this additional time to process appeals**

# *48-5-311(e)(3)(B)*

**If assessor fails to review the appeal and notify taxpayer of changes or corrections within the additional 180 days, the property valuation asserted by taxpayer (Return or Notice of Appeal) shall become the final fair market value.**

**No Assertion of Value – Appeal forwarded to BOE**

# *48-5-311(e)(3)(C)*



Upon a sufficient showing of good cause by reason of unforeseen circumstances proven to the commissioner prior to the expiration of the additional 180 **days…the commissioner is authorized to provide for a time extension** which shall be specified in writing and posted on the website of the county board of assessors..

# *48-5-311(e)(3)(C)*



*If assessor fails to review the appeal and notify taxpayer of changes or corrections within the additional time provided by the commissioner, the property valuation asserted by taxpayer shall become the final fair market value.*

**No Assertion of Value – Appeal forwarded to BOE**

**In addition, the commissioner is authorized to require additional training or remediation.**

# *48-5-311(e)*

- *If appeal filed, BOA must review appeal*
- *No value change – forward appeal to Appeal Administrator and notify taxpayer*
- *Value change – Send 30 day notice of assessment for taxpayer to review.*
- *Taxpayer notifies BOA to continue appeal to Board of Equalization*

# *48-5-311(e)(6)(A)*



**Within 15 days of the receipt of appeal, BOE shall set hearing date**

**Date shall be within 30 days but not earlier than 20 days from the date of notification**

**Notice shall be sent by first-class mail to taxpayer and authorized agent**

**Notice shall be sent by e-mail (if adopted by BOA), first-class mail or intergovernmental mail**

# *48-5-311(e)(6)(A)*

Notice shall advise that each may request

- a list of witnesses
- documents
- other written evidence

**Request must be made 10 days prior to hearing**

**(Regulation 560-11-12-.02)**

**Shall be provided to requesting party 7 days prior to the time of the hearing**

- failure to comply shall be grounds for an automatic continuance or for exclusion of such witness, documents, or other written evidence

# *48-5-311(e)(6)(A)*



- **Taxpayer or authorized agent or representative, or both may appear concerning any appeal**

- **Taxpayer shall specify in writing to the BOE the name of any such agent or representative prior to hearing**

(Time frame for notification – local BOE policy)

# Georgia Department of Revenue

***560-11-12-.02 Nature of the Proceeding; Hearing Procedure; Burden of Proof.***

- **The county board of tax assessors shall have the burden of proof in regards to value, not taxability.**
  - **If a hearing is being held regarding a property tax exemption…the party seeking ….exemption shall have the burden of proving entitlement.**

- *The county board of tax assessors shall present its case first, unless a taxpayer elects to present first.*

## *48-5-311(e)(6)(D)(i)*



…..board of equalization shall announce its decision on each appeal at the conclusion of the hearing ……before proceeding with another hearing

# *48-5-311(e)(6)(D)(i)*



## *BOE Decisions ….*

- **3 members must be present and participate**
- **majority vote required**
- **all members shall sign the decision to indicate their vote**

# *48-5-311(e)(6)(D)(i)*



*Decisions **delivered**….*

- *By hand to each party with written receipt*

*or*

- By registered or certified mail or statutory overnight delivery to the appellant, and

filing the original copy with the county BOA

# *48-5-311(e)(8)*



If at any time during the appeal process to the county board of equalization and after certification by the county board of tax assessors to the county board of equalization, the county board of tax assessors and the taxpayer mutually agree in writing on the fair market value, then the county board of tax assessors, or the county board of equalization, as the case may be, shall enter the agreed amount in all appropriate records as the fair market value of the property under appeal, and the appeal shall be concluded. The provisions in subsection (c) of Code Section 48-5-299 shall apply to the valuation unless otherwise waived by both parties

# SB 258 - 2016 legislation

*(9) Notwithstanding any other provision of law to the contrary, on any real property tax appeal made under this Code section on and after January 1, 2016, the assessed value being appealed may be lowered by the deciding body based upon the evidence presented but cannot be increased from the amount assessed by the county board of tax assessors.*

# SB 258 - 2016 legislation

*This subsection shall not apply to any appeal where the taxpayer files an appeal during a time when subsection (c) of Code Section 48-5-299 is in effect for the assessment being appealed.*

*48-5-311(e.1)*

# Hearing Officers

# *48-5-311(e.1)(1)(A)& (B)(ii)*



## *Hearing Officer Appeals*

- Value and Uniformity
- Value in excess of $750,000
  - Non-Homestead real property
  - Wireless property

# Hearing Officer / Property Types

Nonhomestead Real Property – with a value in excess of $750,000

*If such taxpayer owns nonhomestead real property contiguous to such qualified nonhomestead real property, at the option of the taxpayer, such contiguous property may be consolidated with the qualified property for purposes of the hearing under this subsection.*

*Contiguous property*

*Consolidated with qualified property for purposes of the hearing*

# Hearing Officer / Property Types

Wireless Property – with an *aggregate fair market value in excess of $750,000.00* as shown on the taxpayer's annual notice of current assessment under Code Section 48-5-306

personal property or equipment used directly for the provision of wireless services by a provider of wireless services which is attached to or is located underneath a wireless cell tower or at a network data center location but which is not permanently affixed to such tower or data center so as to constitute a fixture.

# *48-5-311(e.1)(2)*



## *Who can serve?*

Real Property…. state certified general real property appraisers or state certified residential real property appraisers as classified by GREAB

Wireless Property….designated appraisers by a nationally recognized appraiser's organization for wireless property appeals

# *48-5-311(e.1)(2) & (11)*



Hearing Officer training…

- *Initial 8 hr class*
- *Annual 4 hr update*
- GREAB shall annually publish a list of qualified and approved hearing officers
  - *2015 - 66 Hearing Officers*
  - *2016 - 28 Hearing Officers*

# *48-5-311(e.1)(4) & (5)*



- Taxpayer appeals NOA…selects hearing officer as appeal forum

- BOA has 90 days to review appeal
  - If changes are made…30 day notice
  - If taxpayer continues appeal…BOA has 30 days from taxpayers notice to file appeal with Appeal Administrator
  - *Taxpayer may elect to forward appeal to BOE*

# *48-5-311(e.1)(5)*



- BOA has 90 days to review appeal
  - If no changes are made…30 day notice
  - *Taxpayer may elect to forward appeal to BOE*
  - Upon the expiration of 30 notice, the BOA shall certify the notice of appeal … all necessary papers to the appeal administrator for the appeal to the hearing officer, or board of equalization if elected by the taxpayer, and mail a copy to the taxpayer.

# *48-5-311(e.1)(6)(A)*



## *Who picks?*

- the taxpayer and the county board of tax assessors mutually agree
- appeal administrator shall randomly select from GREAB list

shall have experience or expertise in hearing or appraising the type of property that is the subject of appeal

*- If no Hearing Officer is found who is willing to serve appeal administrator shall forward to BOE*

# *48-5-311(e.1)(6)(A)*



- Hearing officer, in conjunction with all parties to the appeal, shall set a time and place to hear evidence and testimony from both parties.

- The hearing shall take place in the county where the property is located, or such other place as mutually agreed to by the parties and the hearing officer

# *48-5-311(e.1)(6)(A)*



- …shall provide … notice…not less than ten days before the hearing
  - documents
  - other written evidence
- must be provided to the other party not less than seven days prior to the time of the hearing
- failure to comply with this requirement shall be grounds for an automatic continuance or for exclusion of such documents or other written evidence.

# *48-5-311(e.1)(7)*



*The Hearing….*

Hearing officer shall …..

- swear in all witnesses,
- perform the powers, duties, and authority of a BOE,
- determine the fair market value of the property ….based upon the testimony and evidence presented during the hearing.

The board of tax assessors shall have the burden of proving its opinion of value and the validity of its proposed assessment by a *preponderance of evidence.*

# *48-5-311(e.1)(7)*



The Hearing….

At the conclusion hearing officer shall

- notify both parties of the decision verbally and
- send both parties the decision in writing or
- deliver the decision by hand to each party, with written receipt

# *48-5-311(e.1)(9)*



If, *at any time during the appeal under this subsection*, the taxpayer and the county board of tax assessors execute a signed written agreement on the fair market value and any other issues raised,: the appeal shall terminate as of the date of such signed agreement; the fair market value as set forth in such agreement shall become final; and subsection (c) of CodeSection 48-5-299 shall apply.

- Decision may be appealed by either party to superior court

# *48-5-311(e.1)(10)*



- Each hearing officer shall be compensated by the county for time expended in considering appeals. The compensation shall be paid at a rate of *not less than $75.00 per hour for the first hour* and not less than $25.00 per hour *for each hour thereafter* as determined by the county governing authority *or as may be agreed upon by the parties with the consent of the county governing authority*.

## *48-5-311(f)*

# Arbitration

# *48-5-311(f)(3)(A)*



- Appeal…..
- shall be filed within 45 days from the date of mailing the notice
- shall specifically state the grounds for arbitration

# *48-5-311(f)(3)(A)*



Within ten days…..

- of receiving taxpayer's notice of arbitration appeal, BOA shall send to the taxpayer an acknowledgment of receipt of the appeal and a notice that the taxpayer shall provide a copy of the ‘certified appraisal’
  - No fees mentioned

## *48-5-311(f)(1)*



- 'certified appraisal' means an appraisal or appraisal report given, signed, and certified as such by a real property appraiser as classified by the Georgia Real Estate Commission and the Georgia Real Estate Appraisers Board

# *48-5-311(f)(3)(A)*

**Page 17 & 18**

- *Taxpayer must provide appraisal within 45 days receiving letter from BOA*
- *Failure to provide appraisal within such 45 days shall terminate appeal*
- *unless the taxpayer, within 45 day period, elects to forward appeal to BOE*

# *48-5-311(f)(3)(A)*



*Within 45 days of receiving appraisal….*

- *BOA accepts appraisal….value becomes final*

- *BOA rejects appraisal….send within ten days of the date of such rejection a written notification by certified mail to taxpayer and taxpayers attorney….appeal continues*

- Failure to notify within 10 days – Value becomes final

## *48-5-311(f)(3)(A)*

**Page 17 & 18**

- If BOA neither accepts or rejects appraisal within 45 days of receipt then value becomes final

- If appraisal is rejected then BOA shall certify to appeal administrator within 45 days of BOA rejection

# *48-5-311(f)(3)(A)*



- *If appraisal is rejected then BOA shall certify to appeal administrator within 45 days of BOA rejection*

- *BOA also serve the taxpayer and the taxpayer's attorney, if any, or employee with*
  - a copy of the certification
  - other papers specified by the person seeking arbitration
  - civil action file number assigned to the appeal

# *48-5-311(f)(3)(A) & (C)(i)*



- *Within 15 days of filing the certification to the appeal administrator, the presiding or chief judge of the superior …..shall issue an order authorizing the arbitration*

- *BOA …provide to the taxpayer a notice of a meeting time and place to decide upon an arbitrator, to occur within 60 days after the date of sending the rejection of the taxpayer's certified appraisal.*

# *48-5-311(f)(3)(C)(i)*



## Arbitrator…..

- Chosen by agreement of BOA and taxpayer ….*or….* presiding or chief judge of the superior court

- Must be certified state certified general real property appraiser or state certified residential real property appraiser ….by GREAB

# *48-5-311(f)(3)(C)(iii)*



## Arbitrator…..

- within 30 days of appointment…set a time and place to hear evidence and testimony from both parties

- ….shall also.. provide written notice to the parties personally or by registered or certified mail or statutory overnight delivery not less than ten days before the hearing

# *48-5-311(f)(3)(C)(iii)*



- …shall advise each party….
  - documents
  - other written evidence
- must be provided to the other party not less than seven days prior to the time of the hearing
- *unless waived by mutual written agreement*, failure to comply with this requirement shall be grounds for an automatic continuance or for exclusion of such documents or other written evidence.

# *48-5-311(f)(3)(C)(iii)*



- The arbitrator, in consultation with the parties, may adjourn or postpone the hearing.

- the taxpayer shall be authorized to exercise a one-time option of changing the date and time of the hearing to a date and time acceptable to the taxpayer and the county board of tax assessors.

- The presiding or chief judge …may direct the arbitrator to proceed promptly with the hearing and the determination of the appeal upon application of any party.

## *48-5-311(f)(3)(C)(iii)*



- Hearing shall occur in the county in which the property is located or such other place as may be agreed

# *48-5-311(f)(3)(C)(viii)*



- In order to determine the fair market value, the arbitrator may consider the final value for the property submitted by the county board of tax assessors at the hearing and the final value submitted by the taxpayer at the hearing.

- Whichever party's value not closest to arbitrator value pays for fees and cost of arbitrator

# *48-5-311(f)(3)(B)*



- At any point, the county board of tax assessors and the taxpayer may execute a signed, written agreement establishing the fair market value without entering into or completing the arbitration process. The fair market value as set forth in such agreement shall become the final value.

  - Decision may be appealed to Superior Court by either party

*48-5-311(g)*

# Superior Court

# *48-5-311(g)(1)*



Superior Court may hear appeals when either party within 30 days appeals decision by…

- county board of equalization
- hearing officer
- arbitrator

Also by mutual written agreement by the taxpayer and the county board of tax assessors… without going to one of the above.

# *48-5-311(g)(1)*



BOA shall not appeal change of 20% or less

- ✓ unless written notice to County Governing Authority and
- ✓ CGA does not vote to prohibit appeal within 10 days of receipt of notice.

# *48-5-311(g)(2)*



Appeal by taxpayer…

effected by e-mailing, by mailing to or filing with the county board of tax assessors a written notice of appeal.

Appeal by BOA…

effected by giving notice to the taxpayer(mailed or delivered)

The notice of appeal shall specifically state the grounds for appeal

# *48-5-311(g)(2)*



- *Within 45 days of receiving taxpayers appeal…*
- *BOA must notifying taxpayer of "settlement conference" and court filing fee required by clerk of court*
- *"Settlement conference" held…..no later than 30 days from the notice*

# *48-5-311(g)(2)*



- *BOA elects not to participate in meeting …taxpayers value is final…frozen subject to 299(c)*

- *Taxpayer chooses not to participate ..may not seek and shall not be awarded fees and costs at such time when the appeal is settled in superior court.*

- *If settlement reached during meeting …agreed value is final… frozen subject to 299(c)*

# *48-5-311(g)(2)*



- *If no agreement at settlement conference ….*
- *written notice to taxpayer…filing fees ($25.00) paid to clerk of court within ten days of conference*
- *copy of the check delivered to the BOA*
- *shall not be subject to any other fees or additional costs otherwise required under any provision of Title 15 or under any other provision of law.*

# *48-5-311(g)(2)*



- *Within 30 days of receipt of proof of payment to the clerk of courts, BOA shall certify …the notice of appeal and any other papers specified by the person appealing including, but not limited to, the staff information from the file used by the county board of tax assessors, the county board of equalization, the hearing officer, or the arbitrator.*

- *shall serve the taxpayer and his or her attorney of record, if any, with a copy of the notice of appeal and with the civil action file number assigned to the appeal*.

**APPEAL TO SUPERIOR COURT - *O.C.G.A. § 48-5-311(g)***

Taxpayer: _____

Taxpayer Representative: _____

Parcel Number(s) or Account Number(s): _____

_____

Property Situs Address:

_____

_____

_____

Plaintiff/Taxpayer,

Please complete this form and submit it to the Cobb County Clerk of Superior Court with your $25 filing fee within 10 days of the settlement conference date listed below.

Once you have filed this form with the Clerk of Superior Court you must return it, along with your filing fee receipt, to the Cobb County Board of Tax Assessors, 736 Whitlock Ave. Suite 200, Marietta, GA 30064

Once the Tax Assessors Office receives these items they have 30 days to complete the process of certifying your appeal to the court. Once filed, you will be provided with a copy of all documents included in the filing.

Taxpayer (or authorized representative):_____

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(This section to be completed by Tax Assessors Office)

Settlement Conference Date: _____

Deadline Date to Submit Filing Fee to Clerk of Supr. Court: _____

BTA Representative Signature: _____

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(This section to be completed by Clerk of Superior Court)

Date Filed with Superior Court Clerk: _____

Case/ Docket Number: _____

Superior Court Clerk Representative Signature: _____

# *48-5-311(g)(2)*



- *The appeal shall constitute a de novo action.*
- *The board of tax assessors shall have the burden of proving its opinions of value and the validity of its proposed assessment by a preponderance of evidence.*
- *Upon a failure of the board of tax assessors to meet such burden of proof, the court may….authorize the finding that the value asserted by the board of tax assessors is unreasonable and authorize the determination of the final value of the property.*

# *48-5-311(g.1)*



- *The provisions in subsection (c) of Code Section 48-5-299 shall apply to the valuation, unless otherwise waived in writing by both parties, as to:*

- *(1) The valuation established or announced by any county board of equalization, arbitrator, hearing officer, or superior court; and*

- *(2) Any written agreement or settlement of valuation reached by the county board of tax assessors and the taxpayer as permitted by this Code section.*

# Amending Code OCGA 48-5-345
# Digest Statistics

As part of digest submission counties to include…

1) number,
2) overall value and
3) percentage total

of all <u>real property parcels</u> under appeal to BOE, arbitration, hearing officer and superior court and also provide "number of taxpayers failing to appear at any hearing for the prior tax year"

*Information to be made publicly available on DOR website

Georgia Department of Revenue

# *48-5-311(h)*

# Recording of interviews or hearings

# *48-5-311(h)(1)*



- In the course of any assessment, appeal, or arbitration, or any related proceeding, the taxpayer shall be entitled to:
- Have an interview with an officer or employee, that is authorized to discuss tax assessments… relating to the valuation of the taxpayer's property
- taxpayer may record the interview at the taxpayer's expense and with equipment provided by the taxpayer……

# *48-5-311(h)(1)(A)*



…..and no such officer or employee of the board of tax assessors may refuse to participate in an interview relating to such valuation for reason of the taxpayer's choice to record such interview;

(B) Record, at the taxpayer's expense and with equipment provided by the taxpayer, all proceedings before the board of equalization or any hearing officer.

# *48-5-311(h)(2)*



- granted to the taxpayer within 30 calendar days from the postmark date of the taxpayer's written request
- conducted in the office of the board of assessors.
- within such 30 calendar day period, mutually agreed between the taxpayer and the taxing authority.
- The taxing authority may extend the time period for the interview an additional 30 days upon written notification to the taxpayer.

# *48-5-311(h)(3)*



- *superior courts of this state shall have jurisdiction to enforce*
- *directly and without the issue being first brought to any administrative procedure or hearing*
- *awarded damages in the amount of $100.00 per occurrence*
- *entitled to recover reasonable attorney's fees and expenses of litigation*

# 48-5-299(c)

# *48-5-299* - HB202 version



- (c) When the value of real property is reduced or is unchanged from the value on the initial annual notice of assessment and such valuation is established as the result of either an appeal decision rendered pursuant to Code Section 48-5-311 or stipulated by agreement of the parties to such an appeal that this subsection shall apply in any year, the valuation so established by appeal decision or agreement may not be increased by the board of tax assessors during the next two successive years, subject to the following exceptions:
- Effective Jan 1st – May 2nd 2016

# ***48-5-299*** – SB258 version



- *(c) When the value of real property is reduced or is unchanged from the value on the initial annual notice of assessment or a corrected annual notice of assessment issued by the board of tax assessors and such valuation has been established as the result of an appeal decision rendered by the board of equalization, hearing officer, arbitrator, or superior court pursuant to Code Section 48-5-311……*

# ***48-5-299*** – SB258 version



- *….or stipulated by written agreement signed by the board of tax assessors and taxpayer or taxpayer's authorized representative, the new valuation so established by appeal decision or agreement may not be increased by the board of tax assessors during the next two successive years, unless otherwise agreed in writing by both parties, subject to the following exceptions*:
- Effective May 3rd 2016

# *48-5-299(c)*



## Valuation Established in an Appeal

1) *taxpayer or representative* ***does not attend appeal hearings*** *or* ***provide*** *BOE, hearing officer or arbitrator with* ***written evidence*** *supporting taxpayer's opinion of value*

2) *taxpayer* ***files return at different valuation*** *during next two years*

3) *If taxpayer files appeal during next two years BOE, hearing officer or arbitrator may increase or decrease value based on evidence presented by the parties*

# *48-5-299(c)*



## Valuation Established in an Appeal

1) *taxpayer or representative **does not attend appeal hearings** or **provide** BOE, hearing officer or arbitrator with **written evidence** supporting taxpayer's opinion of value*

2) *taxpayer **files return at different valuation** during next two years*

~~3) *If taxpayer files appeal during next two years BOE, hearing officer or arbitrator may increase or decrease value based on evidence presented by the parties*~~

# *48-5-299(c)*



## Valuation Established in an Appeal

*(3) Unless otherwise agree in writing by the parties, if the taxpayer files an appeal pursuant to Code Section 48-5-311 during the next two successive years, the board of tax assessors, the board of equalization, hearing officer, or arbitrator may increase or decrease the value of the real property based on the evidence presented by the taxpayer during the appeal process; and*

# *48-5-299(c)*



## Valuation Established in an Appeal

4) The board of tax assessors may increase or decrease value of real property if after **visual onsite inspection** it is found that there have been …
   - **Substantial** additions, deletions or improvements
   - **Errors** in the board of tax assessor records
   - Occurrence of **material factors that substantially affect the fair market value**

# Georgia Department of Revenue

## 560-11-10-.09(c)(2) Real Property Appraisal
## Changing assessment of recently appealed real property

With respect to the term ‘substantial’; when making determinations of whether to increase a recently appealed property the appraiser shall consider the subject property components since the time of the appeal(appeal hearing date), such as the value of new improvements, value of additions to existing improvements (footprint of exchanged structure has been altered), major remodeling or renovations to existing structures (footprint of exchanged structure has not been altered), and adjustments to land due to consolidation of tracts, new surveys, zoning changes, land use changes.

## 560-11-10-.09(c)(2) Real Property Appraisal
## Changing assessment of recently appealed real property

In the event an appealed property is renovated or remodeled, the term substantial shall be construed such that both the property owner and BOA would reasonably conclude a major renovation/remodeling has occurred. Any modifications made to the appealed property after the appeal hearing date that result in a lower value of the appealed property shall be considered in the final valuation of property for the subsequent January 1 assessment.