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ARIZONA STATE BOARD OF EQUALIZATION

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REQUEST FOR ATTORNEY GENERAL OPINION

Date: July 18, 2025

The Honorable Kris Mayes
Attorney General of Arizona
Office of the Attorney
2005 N Central Ave.
Phoenix, AZ 85004-1592

Subject: Request for Attorney General Opinion Regarding Property Valuation and Classification Appeals Before the State Board of Equalization

Dear Madam Attorney General:

Pursuant to Arizona Revised Statutes (ARS) § 41-193(A)(7), I am writing in my official capacity as Acting Chairman of the Arizona State Board of Equalization (SBOE) to request a written opinion from your office on questions of law relating to the Board's official duties concerning property valuation and classification appeals. The SBOE conducts quasi-judicial hearings as outlined in A.R.S. § 42-16151 et seq., and seeks clarity on the interpretation and application of A.R.S. §§ 42-16161.D and 42-16161.E, particularly as they relate to evidence presented at hearings and the SBOE's adherence to administrative due process.

I. Questions Presented:

1. Do the SBOE practices described in the "Facts" section below comply with statutes in Title 42, Chapter 16, Article 4, administrative proceedings statutes in Title 41, Chapter 6, Article 6, and with due-process requirements for administrative hearings? If not, what corrective action must the Board take to be in compliance while still placing the least burden upon the parties?
2. May documents supplied to the SBOE along with the petition and prior to the hearing be considered with other evidence at the hearing? If so, is the SBOE charged with reading these documents into the record if either party is not present for the hearing? Do such documents need to be sworn under oath?

II. Statement of Facts:

The following facts describe the current practices and circumstances prompting this request:

1. A property owner initiates a petition to the county assessor seeking a change in valuation or classification of property. As required by A.R.S. § 42-16051, the petitioner must submit substantial information conforming to one or more statutory valuation methods to support the requested change with their petition. If the petitioner and assessor do not reach an agreement, the petitioner may file an appeal with the SBOE. Pursuant to A.R.S. § 42-16056.D, the petitioner is prohibited from changing issues (a valuation method or methods) in the appeal when filing to the SBOE (currently the SBOE interprets this as the petitioner is not allowed to change the basis for the appeal).
2. The petitioner initiates an appeal to the SBOE by submitting a copy of the Arizona Department of Review form that was originally submitted with the county assessor. The petition form may or may not contain additional documents to support a reduction in their full cash value or a change in property classification that was not included with the original petition submitted to the county assessor. The county assessor does not receive a copy of the petition submitted to the SBOE pursuant to statute.
3. In cases where the assessor appears for a hearing but the petitioner does not, the Board currently considers the petition including documents along with testimony and documents provided by the respondent during the hearing in making its decision. This practice was predicated by the recent pandemic requiring telephonic hearings. It is questionable whether the Board is correct in doing so.
4. In other instances, the petitioner supplements their initial petition to the SBOE with additional documents intended to support a reduction in their full-cash value or a change in the classification of their property. There is no requirement for service of these supplementary documents upon the respondent in our statutes or on Department of Revenue (DOR) Form 82130, "Instructions for Petition for Review of Valuation," or DOR Form 82130R, "Instructions Residential Petition for Review of Valuation." The Board currently considers the supplementary documents previously submitted along with testimony and documents provided by the parties during the hearing in making its decision, even if service of these documents on the respondent is lacking.
5. A.R.S. § 42-16161.D states, in part: "...shall act on the petition...shall hear testimony presented in person at the hearing... each party shall submit evidence in person." A.R.S. § 42-16161.E further states, "The decision shall be based on evidence presented by the parties attending the hearing." There are numerous instances when a petitioner does not appear at the hearing and in this instance may have the expectation that the documents provided to the Board are sufficient to prove their case.

III. Discussion/Legal Basis:

The SBOE is experiencing conflicting interpretations regarding the interplay of A.R.S. §§ 42-16161.D and 42-16161.E with established administrative due process principles and general administrative procedure statutes in Title 41, Chapter 6, Article 6. Specifically, the mandate that

"each party shall submit evidence in person" in A.R.S. § 42-16161.D creates ambiguity when parties pre-submit documents or when one party fails to appear.

- **Due Process Concerns:** Considering documents not formally introduced at the hearing, or documents for which the opposing party may not have had an opportunity to review and respond, raises concerns about fundamental fairness and due process in administrative hearings. Parties typically have the right to confront evidence against them and to present their own evidence in a meaningful way.
- **"In Person" Requirement:** The phrase "in person" could be interpreted narrowly to mean only evidence received by the SBOE at the hearing, or it could be interpreted more broadly to include documents submitted prior to the hearing, provided they are properly made part of the record and available to all parties.
- **Role of Pre-Submitted Documents:** If documents supplied with the initial petition or as supplements are considered "evidence," the statute's requirement for "in person" submission of evidence needs clarification regarding how these documents are formally entered and considered.
- **Absence of a Party:** When a party is absent, the SBOE's current practice of considering pre-submitted documents without an oral presentation or specific formal introduction into the record raises questions about the evidentiary basis of the decision and whether the "in person" requirement is satisfied. Moreover, the question arises whether the SBOE is obligated to ensure these documents are formally "read into the record" in the absence of a party.
- **Burden on Parties:** The Board aims to fulfill its statutory obligations and due process requirements while minimizing procedural burdens on petitioners, many of whom are unrepresented property owners. Any required corrective actions should ideally reflect this goal.

An opinion from your office is crucial for the SBOE to ensure its practices fully comply with Arizona law, maintain the integrity of its quasi-judicial process, and uphold due process rights for all parties involved in property valuation and classification appeals.

IV. Impact of the Opinion:

A clear Attorney General Opinion on these matters will provide essential guidance to the Arizona State Board of Equalization. It will enable the Board to:

- Establish consistent and legally sound evidentiary procedures for all hearings.
- Ensure that all parties receive proper notice and opportunity to present and respond to evidence considered by the SBOE at a hearing.
- Reduce the risk of legal challenges to SBOE decisions based on procedural or evidentiary grounds.
- Promote efficiency and fairness in the property valuation and classification appeal process throughout Arizona.

Thank you for your consideration of this important request. We are available to provide any further information or clarification your office may require during your review.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "George R. Shook", written over the printed name.

George R. Shook
Acting Chairman Arizona State Board of Equalization

Cc: Eryn McCarthy; Section Chief Arizona Attorney General Office