



## WHAT EVERY LAWYER SHOULD KNOW ABOUT PROPERTY TAXES

*An insiders' guide to the confusing world of property taxation from BRUSNIAK TURNER.*

*Providing insight and saving lawyers research time and their clients money since 1981*



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## LOST AT THE ARB? IT'S ONLY HALFTIME THE POST-ARB PLAYBOOK

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*"It ain't over till it's over."*

— Yogi Berra, 1973

### IT PAYS TO PLAY

Texans filed over 3.1 million property tax protests in the most recent reporting year. Here are the results:

- 55% were settled
- 30% went to an Appraisal Review Board (ARB) hearing
- 15% were abandoned or withdrawn

#### **How Often Did Taxpayers Win?**

- 66% of settlements resulted in a value reduction
- 66% of ARB hearings also ended with a value reduction

Between settlements and ARB rulings, \$283.3 billion in taxable value was wiped from the rolls—a staggering sum by any measure.

### THE SECOND HALF

Even after the ARB had its say, roughly 45,000 taxpayers weren't satisfied—and decided to

fight on.

### **Where Did They Go?**

- 24,000 sued in district court
- 18,000 filed for binding arbitration
- 96 appealed to the State Office of Administrative Hearings (SOAH)

### **Final Scores**

We don't have outcome data for arbitration or SOAH, but district court results are crystal clear:

- 92% of lawsuits ended with an agreed judgment reducing value
- Those reductions wiped out an additional \$42.3 billion in taxable value

### **Total Tax Relief? Staggering.**

When you add it all up—settlements, ARB reductions, and appeals—the system erased more than \$6.3 billion in property taxes.

*Turns out, halftime adjustments win championships.*

## **WHAT ARE THE OPTIONS?**

If you're dissatisfied with an ARB's decision, you have options—but choose carefully. Not every forum has jurisdiction over every type of appeal.

(1) File suit in district court

The most comprehensive option—available for all types of appeals.

(2) Request binding arbitration

Available for value disputes involving properties under \$5 million and all homesteads.

(3) Appeal to the State Office of Administrative Hearings (SOAH)

Limited to market value or equity cases over \$1 million (excluding industrial properties).

(4) Request a “do over” by Limited Binding Arbitration (LBA)

Available only for specific procedural violations during the ARB hearing process.

*Appeal wisely—this is overtime with new referees.*

## **DISTRICT COURT**

District court is the safest option—it has jurisdiction over all property tax appeals, regardless of value or the nature of the dispute. And 92% of these cases settle.

### **Why Such a High Settlement Rate?**

In most appeals, prevailing taxpayers can recover attorney's fees. That fee-shifting risk incentivizes settlements.

But...appraisal districts will not pay attorney's fees in a settlement. Of the 24,000 court cases filed, only \$18,000 in attorney's fees were awarded.

### **Do These Cases Ever Go to Trial?**

Almost never. Just 15 of the 24,000 cases were decided by a judge or jury—including those resolved by summary judgment.

## **Lawyers Know the Terrain —But Watch the Traps**

For lawyers, district court is familiar territory. You know the rules, the procedures, and what to expect.

But it's easy to stumble into a jurisdictional trap:

- Deadline to File: Lawsuits must be filed within 60 days of the date of receipt of the ARB's order. Miss it, and the court loses jurisdiction.
- Timely Payment Required: At least the undisputed amount of taxes must be paid before they become delinquent. Failing to do so bars appeals entirely.

***Trial experience not required—calendar discipline, absolutely.***

## **BINDING ARBITRATION**

Binding arbitration is conducted by the Texas Comptroller. It must be requested within 60 days after a property owner—or their agent—receives their ARB's order.

Arbitration is available only for:

- Real or personal property valued at \$5 million or less, and
- Residence homesteads, regardless of value.

Only disputes over appraised or market value, or tax equity, may be appealed through binding arbitration. The Comptroller does not have jurisdiction to hear cases involving exemptions, special valuations, or other types of tax disputes. The filing fee ranges from \$450 to \$1,550, depending on the type and value of the property.

### **Filing Mechanics**

Taxpayer representatives—including attorneys—must use the Comptroller's online portal to request arbitration. Accounts may only be created at the firm or entity level, not by individual attorneys. Setting up an account can take longer than expected, so don't wait until the last minute.

Property owners representing themselves may file by mail using the Comptroller's prescribed form, available on its website.

### **How It Works**

Once a request is accepted, the Comptroller appoints a neutral arbitrator from its registry. The arbitrator schedules a hearing during which both parties can present their case. There are no formal rules of evidence.

The arbitrator's decision is binding. If the taxpayer prevails, their deposit is refunded by the appraisal district—minus a \$50 administrative fee retained by the Comptroller.

*Attorney's fees are not recoverable in arbitration, regardless of outcome.*

### **Who Serves as Arbitrators?**

Arbitrators are selected from a pool of professionals certified by the Comptroller. To qualify, an individual must either:

- Be a licensed Texas attorney in good standing, or
- Be a real estate broker or salesperson, licensed appraiser, or CPA with at least five years of licensure and experience.

All arbitrators must complete Comptroller-approved training before hearing cases and must complete refresher training every two years to remain eligible.

### **A Note**

Consider becoming an arbitrator. The need for qualified arbitrators is high, and while the compensation is modest, the role provides meaningful public service and valuable insight into property valuation disputes.

Of the available remedies, binding arbitration is the second-best option—particularly when court isn't practical or preferred.

## **STATE OFFICE OF ADMINISTRATIVE HEARINGS (SOAH)**

Unless absolutely necessary, I do not recommend going to SOAH. A study by the Texas Taxpayers and Research Association found that taxpayers lose 93% of the time in SOAH hearings. Of the remaining 7%, many of those “wins” are only partial—and usually result from the government conceding it made a mistake.

In theory—and only in theory—SOAH is a good remedy. It provides a neutral forum of experienced administrative law judges to hear property tax appeals. That can be especially important for taxpayers who can't get a fair hearing in the county where their property is located.

### **Narrow Jurisdiction**

Like the Comptroller's office, SOAH's jurisdiction is limited. It may only hear:

- Disputes involving market value or tax equity, and
- Only for properties the ARB has valued at more than \$1 million.

SOAH cannot hear appeals involving industrial properties.

*Attorney's fees are recoverable—under the same rules that apply in district court.*

### **Filing Requirements**

To appeal, you must file a SOAH promulgated form with the chief appraiser of the appraisal district—not with SOAH directly—within 30 days of receiving the ARB's written order. A \$1,500 deposit is required, \$300 of which is nonrefundable. The form is available on SOAH's website.

## **“DO-OVERS” (Limited Binding Arbitration)**

If your client believes an ARB ignored its rules or otherwise mishandled their hearing, they may request Limited Binding Arbitration (LBA) through the Comptroller. A successful LBA can result in a new ARB hearing or an order for corrective action, and a refund of the filing deposit, minus a \$50 administrative fee.

### **When Is LBA Available?**

LBA applies only if the ARB:

- Failed to follow its own procedures (or adopted procedures beyond those allowed by the Tax Code)
- Did not timely schedule the hearing
- Failed to deliver statutorily required hearing materials
- Denied the owner the opportunity to present evidence or cross-examine witnesses
- Did not begin the hearing on time (or refused to reschedule after a two-hour delay)
- Refused to schedule multiple properties together when requested

- Relied on evidence that wasn't disclosed at least 14 days in advance

No other procedural errors are LBA eligible.

### **Strict Deadlines & Steps**

(1) Notice of Violation (Days 0–5):

- Within five days of the violation, send written notice by certified return-receipt requested mail to all three:
  - ARB Chair
  - Chief Appraiser
  - Taxpayer Liaison Officer

(2) ARB Response (Days 6–15):

- ARB's 10-day window to respond if it will correct the issue.

(3) File LBA Request (Days 11–30):

- If no adequate response, submit the LBA request via the Comptroller's online portal (or by mail for pro se owners).

(4) Pay Deposit:

- \$450 for homesteads valued at \$500,000 or less
- \$550 for all other properties

### **What Happens Next**

The Comptroller appoints an arbitrator to decide if a statutory violation occurred. Only attorney are allowed to arbitrate LBAs. If a violation is found, the arbitrator may order a new hearing or other corrective action. If the property owner prevails, their deposit is refunded (minus a \$50 administrative fee).

### **Fallback: District Court *De Novo* Appeal**

If LBA isn't an option—or your preference—it's better to file suit in district court on the merits. Under *de novo* review, you get a fresh trial, and the ARB procedural errors are mooted.

## **FINAL THOUGHTS**

Every year, taxpayers participating in the appeals process secure billions in property tax relief. But billions more are left on the table—simply because no one took the time or knew to appeal.

The numbers don't lie:

- More than half of protesting taxpayers get a reduction before ever seeing an ARB panel.
- Two-thirds of those who go to a hearing obtain some relief.
- Two-thirds of those who push further get even more.

The odds are better than you think. All it takes is someone willing to play the second half.





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