

WILMINGTON BOARD OF CIVIL AUTHORITY RULES OF PROCEDURE FOR TAX ASSESSMENT APPEAL HEARINGS

PURPOSE: The Board of Civil Authority (BCA) of the Town of Wilmington is required by 32 VSA Chapter 131 to conduct appeal hearings of lister property valuation decisions. The purpose of these rules is to establish uniform procedures for conducting such appeal hearings and ensure compliance with Vermont's Open Meeting Law.

APPLICATION: These rules of procedure shall apply to all property tax assessment appeal hearings conducted by the Town of Wilmington Board of Civil Authority. A copy of these rules shall be provided to the Town of Wilmington Board of Listers and to each party bringing an appeal before the BCA.

PROCEDURE:

1. Where: All BCA Tax Appeal Hearings will be held at the Wilmington Town Hall, 2nd Floor Meeting Room, Wilmington, Vermont unless otherwise warned and noticed. Any reconvened session of a tax appeal hearing will not be warned and noticed as it is a continuation of the first meeting.
2. Open Meeting Law: All hearings will be conducted in accordance with 1 VSA §310(2) – Open Meeting Law. All hearings will be audio taped. Draft meeting minutes will be available in the Town Clerk's Office 5 days from the date of the meeting (1 VSA §312(b)).
3. Quorum of the BCA: Per 24 VSA §801 for BCA conducting tax appeals a quorum shall be constituted by a minimum of three (3) members and, "The act of a majority of the board *present* at the meeting shall be treated as an act of the board." If a quorum is not present, the only action that may be considered is a motion for recess or adjournment of the hearing.
4. Oaths: The BCA members, Listers (and any agents), and Appellants (and any agents) shall take their respective oaths *prior* to the commencement of the tax appeal hearing.
5. Disqualification: Members of the BCA who appeal their own assessments or who have any interest in property under appeal are prohibited from serving on the BCA for Tax Assessment Appeals during the tax year the property is under appeal (32 VSA §4404(d)). If a taxpayer believes any BCA member should be excluded from hearing an appeal based on the criteria mentioned herein; then the taxpayer must raise the concern to the BCA Chair prior to the presentation of evidence.

6. Conflicts of interest: Board members must step down from any appeal that involves a relative, by blood or marriage, who is a first cousin, niece, nephew, aunt, uncle, parent, grandparent, or sibling (12 VSA §61).
7. Maintaining Order: The Chair of the BCA, or in the Chair's absence, the Vice-Chair, shall chair all tax assessment appeal hearings. If both the Chair and the Vice-Chair are absent, a member selected by the BCA shall chair the hearing. The Chair may make motions and may vote on all questions before the BCA. The Chair shall rule on all questions of order and procedure. No party will speak unless recognized by the Chair. No profanity/slander or unprofessional conduct will be allowed by any party. Any individual who displays these actions will be removed from the meeting. The Chair has the right to limit participation in the process to only those who have a legal interest and are relevant to the evidence.
8. Meeting Agenda: Each BCA meeting shall have an agenda prepared by the Clerk, with 15 minutes allotted for each hearing. All hearings shall be conducted in the same order as they appear on the agenda, except that at the discretion of the Chair, the order of the hearings may be modified.
9. Time: Every recognized participant will be given up to five (5) minutes to orally present their respective evidence. The BCA Chair will recognize participants at the beginning of each hearing, and may appropriate additional time for multiple property appeals. Cross examination will be allowed by all parties.
10. Evidence: To ensure due process, evidence will be limited to "what is relevant" as determined by the BCA Chair. The Chair may exclude any irrelevant, unreliable or unnecessarily repetitive evidence. Relevant evidence is any verbal testimony or document that tends to demonstrate the value of the property subject to appeal. Reliable evidence is any relevant evidence commonly relied upon by reasonably prudent people in the conduct of their affairs. It is the responsibility of the respective parties, both Appellants and Listers, to collect and present their own evidence. One official copy of any evidence shall be presented to the Clerk of the BCA, who will mark all documents submitted and assign evidence number(s). In addition to the official copy presented to the Clerk, Appellants are asked to bring 19 additional copies, and the Listers are asked to bring 16 additional copies.
11. Meeting Sequence: The Chair shall generally conduct tax assessment appeal hearings in the following sequence:
 - a. Open the hearing, stating the name of the appellant, property location and parcel ID number.
 - b. Ask the appellant and listers to take the following oath: **Under the pains and penalties of perjury, do you solemnly swear that the evidence you give in the cause under consideration shall be the whole truth and nothing but the truth?**

- c. Ask the appellant if he/she has received a copy of these rules of procedure and whether he/she has any questions about how the hearing will proceed. Check for any multiparty authorizations.
- d. Request BCA members to disclose any conflict of interest and/or *ex parte* communication.
- e. Ask the listers to introduce the property on appeal by describing the property and its present valuation.
- f. Ask the appellant to present his/her valuation and supporting evidence.
- g. Ask the listers to respond to the information presented by the appellant.
- h. Invite questions from BCA members.
- i. Ask the listers to present their valuation and supporting evidence.
- j. Ask the appellant to respond to the information presented by the listers.
- k. Invite questions from BCA members.
- l. Appoint an inspection committee of at least three BCA members to inspect the property at a date and time set by the chair and report its findings back to the BCA.
- m. Recess to a date and time not more than 30 days from the hearing to accept the inspection committee report.
- n. Reopen the hearing at the date and time specified.
- o. Invite the inspection committee to present its report.
- p. Invite final questions from the BCA.
- q. Invite final comments from the appellant.
- r. Invite final comments from the listers.
- s. Close the hearing and explain that the BCA will enter deliberative session and will issue a written decision in writing within 15 days.

12. Site Visits: Each property shall be subject to an inspection by a site inspection committee of not less than three BCA members appointed by the Chair. The site inspection committee shall report to the BCA within 30 days of the hearing. If, after notice, an appellant refuses to allow an inspection of the property as required under 32 VSA § 4404(c), including exterior and interior of any structure on the property, the appeal shall be deemed withdrawn. The Vermont League of Cities & Towns' (VLCT) legal opinion dated, June 8, 2004 states the Open Meeting Law specifically exempts "site inspections for the purpose of assessing damage or making tax assessments or abatements..." from its requirements. It further states there is no other "legal" requirement to notify the Listers of the site visit.

13. Ex Parte Communication: Once evidence has been submitted to the BCA, and the hearing has been closed, there will be no communication between any BCA member, Lister or Appellant with regard to the appeal. For Appellants and Listers this means that when the BCA inspection committee visits a property, neither party is permitted to "point things out" or "discuss" any part of the appeal unless directly asked a question by an inspection committee member.

14. Deliberative Session: BCA meetings to hear tax assessment appeals are quasi-judicial meetings. After hearing evidence, the BCA can go into deliberative session without regard to the provision of the open meeting law pertinent to; warning, minutes, and/or executive session.

15. Duty of the BCA: The BCA does not consist of "experts" in the field of property valuation. The Listers are presumed to have performed their duties properly. Since the Listers enjoy the presumption of validity, the appellants are required to produce some evidence greater than their general belief, in order to prove their cases. It is the responsibility of the BCA to act as "Judge" in the tax assessment appeal process by hearing the evidence and rendering a decision thereon.

16. Conduct: It is the responsibility of all parties, BCA, Appellants and Listers to ensure the rules of procedure are followed. These rules may amended by a majority vote of the Board of Civil Authority.

The following Tax Assessment Appeal Hearing Rules of Procedure were adopted by the Board of Civil Authority (hereinafter BCA) at a duly warned meeting, held on July 20, 2009, at the Wilmington Town Hall, 2nd Floor Meeting Room, Wilmington, Vermont.

ATTEST:


Susan Joy Haughwout
Wilmington Town Clerk

DATED:

20 JULY 2009