

WESTMORELAND COUNTY BOARD OF ASSESSMENT
APPEALS

RULES OF APPEAL PROCEDURE

EFFECTIVE APRIL 12, 2012

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**WESTMORELAND COUNTY BOARD OF ASSESSMENT
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RULES OF APPEAL PROCEDURE**

A. GENERAL RULES

RULE 1. Time for Filing

All annual appeals from the assessment of real estate must be properly received and filed with the Westmoreland County Board of Assessment Appeals (Board) not later than 4:00 PM, prevailing time, September One (1) of each year. Any appeal received after the filing date will be rejected as untimely filed unless it is postmarked by the U. S. Postal Service on or before September One (1) of each year.

All assessment appeals filed from new assessment or revisions of assessment during the course of any particular year must be received within forty (40) days of the date of the assessment notice.

RULE 2. Place for Filing

An assessment appeal from the assessment of real estate shall be filed with the Westmoreland County Board of Assessment Appeals, Courthouse Square, 40 N. Pennsylvania Avenue, Suite 440, Greensburg, Pennsylvania 15601.

Appeals may be filed by mail subject to limitations set forth in Rule 1. Assessment appeals may also be filed with the Board in person at the Westmoreland County Board of Assessment Appeals office Monday through Friday between the hours of 8:30 AM and 4:00 PM.

RULE 3. Filing and Signing Assessment Appeals

An assessment appeal may be filed by any party authorized to do so pursuant to 53 Pa.C.S. § 8844. An assessment appeal shall be executed by the party filing the appeal. If the party filing the appeal is a corporation, the assessment appeal shall be executed by an officer of said corporation or by a duly authorized employee of the corporation accompanied by verified (18 Pa.C.S.A. § 4904) certification that he/she is authorized to act on behalf of the corporation. Where a partnership files the appeal, a partner shall execute the assessment appeal.

Assessment appeals in Westmoreland County are classified in the following six (6) categories:

1. Residential;
2. Farm;
3. Commercial;
4. Industrial;
5. Mineral; or
6. Exempt.

It is the responsibility of the Owner to obtain and complete the proper assessment appeal form applicable to the subject property.

RULE 4. RESERVED

RULE 5. Authorized Representative

Appearance at Hearing: The aggrieved party must appear at the appeal hearing before the Board. Where an authorized representative attends the hearing in lieu of the appellant(s), the representative shall

produce a power of attorney executed by the appellant(s), verifying the representative's authority to appear in order to avoid abandonment of the appeal. Failure to submit written authorization may result in rejection of the appeal filing.

Only Attorneys-at-law licensed to practice in the Commonwealth of Pennsylvania may represent aggrieved parties at the appeal hearing before the Board. Nothing in this section shall permit the unauthorized practice of law by an individual who is not an Attorney-at-law.

Where the appellant(s) is represented by legal counsel, or by some other authorized representative, the name, address, and telephone number of such counsel or representative shall be provided and, thereafter, all notices shall be sent to such counsel or representative or as directed on the appeal filing.

B. APPEAL HEARING

RULE 6. Notice of Hearing

Notice of the date and time of the hearing will be sent to the owner(s) of record, giving the required twenty (20) days notice prior to the scheduled day and time to appear. A third-party notice will be sent to appellant(s)'s attorney of record or to an authorized representative only upon the appellant(s)'s written instruction to do so.

RULE 7. Postponement of Hearing

Requests for a postponement of a hearing should be in writing and filed with the Board at least five (5) days prior to the date set for the hearing. A request for a postponement shall set forth in detail the grounds for the request.

Should exigent circumstances require a request for postponement within five (5) days of the date set for the hearing, the Board will consider such requests in light of the specific circumstances presented by each such request.

The Board shall have the right to continue any hearing from day to day or to adjourn it to a later date certain by announcement of such continuance at the hearing or by other appropriate notice,

RULE 8. Failure to Appear at Hearing

Failure of the appellant to appear at the hearing, after due notice thereof, shall be considered an abandonment of the appeal.

RULE 9. Procedure at Hearing

At all hearings, the Board may sit as a Board, individually, or through a duly appointed hearing officer, (or any combination thereof, as it may elect) to hear such evidence as may be properly submitted. The Board may examine the appellant(s) or witness(es) appearing on appellant(s)'s behalf and may require the appellant(s) to furnish additional information or data for consideration in arriving at an opinion of fair market value. At the conclusion of the hearing and after such review and consideration as may be required, the Board will render its decision.

If the Board appoints a Hearing Officer to conduct any or all evidentiary proceedings with respect to an assessment appeal, the Hearing Officer so appointed may swear witnesses, take testimony and accept into evidence any reports or materials relating to an appeal. Any Hearing Officer so appointed shall report his proposed findings of fact to the Board for its use in rendering decisions on assessment appeals.

Testimony regarding taxes, tax increases, percentage of assessment increases, financial ability to pay and related complaints will not be permitted. **The sole matter at issue is the fair market value of the property.**

Westmoreland County utilizes a base valuation year for assessment of 1973, with a stated ratio of assessment to market value of 100%. Your assessment is therefore expressed in 1973 dollars.

The relationship of the 1973 base year assessment to current market value of the property is controlled by the common level ratio of assessment in effect as of the date that the appeal was filed. The common level ratio presently set for Westmoreland County by the Pennsylvania State Tax Equalization Board (STEB) is posted in the Assessment Office.

Your assessment will be equalized with the assessments of properties throughout the entire County by the application of the common level ratio of assessment to the Board's finding of current market value.

The Pennsylvania Statutes provide that the Board shall make the following determination in any appeal:

- a) the market value of the property as of the date such appeal was filed; and
- b) the common level ratio published by the State Tax Equalization Board on or before July 1 of the year prior to the tax year on appeal before the board.

Your appeal must therefore be substantiated by an opinion of the current market value of the property involved.

You should be prepared to support your opinion by accepted appraisal processes, i.e. the cost, sales/market comparison, and income approaches. A professionally prepared appraisal may be used for this purpose.

In the event a professionally prepared appraisal is provided, the presentation of an appraisal does not relieve you from the requirements to provide other documentation as detailed in these "Rules of Appeal Procedures."

Written reports or presentations must be signed by the person who prepared the report or presentation.

Testimony as to value will be accepted only from the following:

- a) Owner;
- b) Principal in the corporation or other entity holding title or possessing an equitable interest in the property;
- c) Principal in the corporation or other entity having responsibility for payment of real estate taxes under terms of a lease with the owner; or
- d) Properly Certified Appraiser licensed in the Commonwealth of Pennsylvania,

The assessment law provides that the assessment record is *prima facie* evidence of the validity of the assessment. This means that upon introduction of the assessment record into evidence by the Assessment Office, the Board may presume that the assessment is correct unless competent evidence to the contrary is provided by the appellant(s).

The burden of proof is therefore upon you to establish your case.

The Assessment Office may be represented at the hearing by an expert witness. Your testimony and evidence are subject to cross-examination. The Assessment Office may, at its option, offer additional testimony and/or evidence beyond the assessment record. Such testimony and/or evidence is also subject to cross-examination.

All evidence not provided in advance of the hearing must be presented at the hearing. The Board will not continue the hearing for the purpose of accepting evidence required to be presented on the original hearing date.

The Board will allow a reasonable amount of time for the presentation of your appeal. This time allotment is based upon the Board's historic experience in hearing cases of similar nature and complexity. You should be prepared to present your case in as brief and concise a manner as possible. The volume of appeals being heard may, at times, cause delays; therefore, you should allow sufficient additional time in the event the Board is behind schedule.

Nothing herein shall prevent the appellant from appealing the base year valuation without reference to ratio.

RULE 10. Photographs

Appellant(s) is encouraged to produce at least one still photograph of the property under appeal and at least one still photograph of every property used as a comparable. Failure to produce any such photo(s) shall not result in a refusal by the Board to hear relevant testimony on the particular property.

RULE 11. Evidence

The Board will not be bound by the strict rules of evidence normally applied to the courts. The Board may, in its discretion, hear any and all evidence that it considers probative and helpful in deciding the appeal. A record owner of property under consideration may offer his or her opinion of the fair market value either orally or in writing.

Written appraisals to be submitted as evidence must be dated no more than 12 months prior to the date of the filing of the appeal, be prepared by a properly Certified Appraiser licensed in the Commonwealth of Pennsylvania, must comply with the Uniform Standards of Professional Appraisal Practice (USPAP) and contain enough information for the Board to determine how the appraiser reached his conclusions including any adjustments made to comparable properties.

RULE 12. Submission of Written Reports

Where appellant(s) intends to present a written report relative to value, one copy of such report shall be delivered to the Board of Assessment Appeals Office at least ten (10) days prior to the date set for the hearing.

RULE 13. Expert Witness - Qualifications

Where appellant(s) intends to introduce evidence from or by an expert witness with respect to the value of real property, the written qualifications of the expert witness shall be provided to the Board. These qualifications should include proof of compliance with the Pennsylvania Real Estate Licensing Act and the rules and regulation of the Pennsylvania Real Estate Commission. Expert witness qualifications must be submitted to the Board at the Assessment Office at least ten (10) days prior to the date set for the hearing.

RULE 14. Expert Witness - Financial Interest

Where a written report relative to value is presented by a witness other than the owner, a statement shall be submitted as to whether such witness has any financial interest in the property involved in the appeal, and whether or not the compensation for testimony is based upon the outcome of the appeal.

RULE 15. Disqualification

Failure to adhere to Rule 11 through Rule 14 may result in the Board refusing to admit offered evidence, testimony, and/or to hear witness(es).

RULE 16. Property Subject to Lease

Where the assessment appeal involves a property which is subject to a lease(s), the appellant(s) shall submit to the Board a verified copy of the lease(s) containing all terms and conditions. In the case of apartment houses, office buildings, and shopping centers, the appellant(s) shall submit a verified copy of a typical lease, together with the latest rent schedule, a copy of the rent roll showing the tenant's name, unit identification, square footage, bedroom and bath count, monthly or annual rents, and any additional payments made or required. The appellant(s) shall also submit income and expense statements, with all notes and schedules, for the past three (3) years.

RULE 17. Taxing Districts

These rules shall be applicable to appeals by taxing districts.

C. EXEMPTION APPLICATION

RULE 18. Filing Requirements

All entities seeking a grant of exempt status from taxation shall submit a written appeal in accordance with the Consolidated County Assessment Law (53 Pa.C.S. §§ 8801, et seq.). Any entity seeking exempt status shall submit to the Board, before the appeal hearing will be scheduled, the following documentation as may be applicable;

- a) Properly completed exemption application form;
- b) Proof of nonprofit status granted by the Commonwealth of Pennsylvania;
- c) Appropriate Internal Revenue Service ruling letter granting exempt status;
- d) Copies of appropriate income tax returns filed with the IRS, if any, for the immediate three (3) years preceding the date of assessment appeal;
- e) Copies of all organizational documents, by-laws, and most recent amendments;
- f) A copy of the deed or document of title, whereby the appellant(s) obtained the property for which exemption is being sought. In the event no such copy is available, a reference to the deed or document along with a verified statement containing the same information as herein set forth shall be submitted; and
- g) Any other documentation which may be required or requested by the Board.

The above requested information may be set forth in one cumulative verified statement.

RULE 19. Representation

Where the appellant(s) is represented by legal counsel or by some other authorized representative, the name, address, and telephone number of such representative or counsel shall be provided and, thereafter, all notices shall be sent to such counsel or representative.

RULE 20. Statutory Requirements to be met

The appellant(s) shall submit a brief statement of the applicable law whereby the appellant(s) feels the property under appeal is entitled to exempt status, with specific reference to the statutory section(s) and citations, or otherwise pertinent under the laws of the Commonwealth of Pennsylvania.

RULE 21. Unavailability of Information

In the event any of the materials required by these rules are not presented to the Board, the appellant(s) should, either prior to or at the time of the hearing, be prepared to submit a statement as to the reason(s) why such documentation is not available or is not submitted to the Board.

RULE 22. Leases or Other User Arrangements

In the event that any portion of the property for which exemption is sought is leased by the appellant(s) or otherwise permitted to be used by any entity other than the appellant(s), the appellant(s) shall submit, at least ten (10) days prior to the date of the hearing, a copy of any such lease(s) or a brief statement concerning the permissive use arrangement. Lease(s) copies or statements shall contain the identity of the lessee or user, the amount of rent or other consideration paid by lessee or user, the terms of lease(s) or permissive use, and all other items pertinent thereto.

RULE 23. Subsequent Appeals

Where an assessment appeal for exemption has been submitted and exemption granted, and appellant(s) thereafter seeks additional exemption on other property, the appellant(s) is not required to resubmit all of the supporting documents, but is required to submit only information pertinent to the subject property for which exemption is being sought. In the event that any portion of the original information, documents and/or exhibits have been amended or information contained therein is stale or outdated, lip-to-date information shall be provided with the appeal filing.

D. APPEALS FROM THE BOARD

RULE 24. Notification

The Board shall give prompt, written notice of its decision to the appellant(s) and to all parties who entered an appearance in writing before the Board by mail. The date on which a decision of the Board is mailed shall be conclusively presumed to be the date of the issuance of the decision and a 30-day time period for appeal shall begin to run from that date.

RULE 25. Rehearing

A request for rehearing shall not stay the time for taking an appeal from the Board. If a rehearing is granted by the Board, the time for appeal shall begin to run from the date of the Board's decision following the rehearing.

RULE 26. Notification of Appeal from Decision of Board

In all appeals from the decision of the Board, the Westmoreland County Board of Assessment Appeals shall be served with a copy of the petition for appeal in accordance with the Local Rules of the Westmoreland County Court of Common Pleas.

E. RESERVED

F. REPEALER/ADOPTION

All prior rules inconsistent with these rules are hereby repealed.

Adopted the Third (3rd) day of January, 2001, by the Westmoreland County Board of Assessment Appeals. The effective date of these Rules of Appeals Procedure shall be January 31, 2001.

Approved by the Westmoreland County Commissioners on the twenty-second (22nd) day of February, 2001.

Amended the Thirteenth (13th) day of November, 2003, by the Westmoreland County Board of Assessment Appeals. The effective date of the amendment shall be November 30, 2003.

Amendments approved by the Westmoreland County Commissioners on the fourth (4th) day of December, 2003.

Amended the Tenth (10th) day of November, 2004, by the Westmoreland County Board of Assessment Appeals. The amendment shall be effective upon approval by the Westmoreland County Commissioners.

Amendments approved by the Westmoreland County Commissioners on the Ninth (9th) day of December, 2004.

Amended the Fourteenth (14th) day of February, 2012, by the Westmoreland County Board of Assessment Appeals. The amended rules shall be effective upon approval by the Westmoreland County Commissioners.

Amendments approved by the Westmoreland County Commissioners on the Twelfth (12th) day of April, 2012