

INFORMATION PAMPHLET FOR PROTESTING PROPERTY OWNERS

At your hearing before the County Valuation Protests Board you will be asked by the Board if you have read and understand the material contained in this pamphlet.

This pamphlet may be made a part of the record at the hearing before the Board.

If you wish to inspect records available in the county assessor's office with respect to the valuation of your property, you may do so prior to the hearing before the Board.

This pamphlet contains selected sections of the Property Tax Code and implementing regulations. This pamphlet should not be considered a complete compilation of all statutes and regulations which may affect hearings before the County Valuation Protests Board, but is, rather, an explanation of selected issues, which are commonly raised at such hearings. You may also purchase copies of the Code and regulations from the Compilation Commission at P.O. Box 15549, Santa Fe, New Mexico 87592, or by calling (505) 827-4821.

Certain deadlines contained in the Property Tax Code may be extended by order of the director of the Property Tax Division. The time for a property owner to file a petition of protest and the time to file an appeal from a decision and order of the County Valuation Protests Board, however, may not be extended. If a deadline is extended, there is no requirement that affected property owners be individually notified of the extension. The only notification of such an extension will ordinarily be its publication in the legal section of a newspaper of general circulation in the county where the property is located. Refer to Section 7-38-85, NMSA 1978, on the last page of this pamphlet.

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7-36-7, NMSA 1978

PROPERTY SUBJECT TO VALUATION FOR PROPERTY TAXATION PURPOSES.

A. Except for the property listed in Subsection B of this section or exempt pursuant to Section 7-36-8 NMSA 1978, all property is subject to valuation for property taxation purposes under the Property Tax Code [Chapter 7, Articles 35 to 38 NMSA 1978] if it has a taxable situs in the state.

B. The following property is not subject to valuation for property taxation purposes under the Property Tax Code:

(1) property exempt from property taxation under the federal or state constitution, federal law, the Property Tax Code or other laws, but:

(a) this does not include property all or a part of the value of which is exempt because of the application of the veteran, disabled veteran or head-of-family exemption;

(b) this provision does not excuse an owner from obligations to report his property as required by regulation of the department adopted under Section 7-38-8.1 NMSA 1978 or to claim its exempt status under Subsection C of Section 7-38-17 NMSA 1978; and

(c) this includes property of a museum that: 1) has been granted an exemption from the federal income tax by the United States commissioner of internal revenue as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended or renumbered; 2) is used to provide educational services; and 3) grants free admission to each student who attends a public school in the county in which the museum is located;

(2) oil and gas property subject to valuation and taxation under the Oil and Gas Ad Valorem Production Tax Act [Chapter 7, Article 32 NMSA 1978] and the Oil and Gas Production Equipment Ad Valorem Tax Act [Chapter 7, Article 34 NMSA 1978]; and

(3) productive copper mineral property subject to valuation and taxation under the Copper Production Ad Valorem Tax Act [Chapter 7, Article 39 NMSA 1978]; for the purposes of this section, "copper mineral property" means all mineral property and property held in connection with mineral property when seventy-five percent or more, by either weight or value, of the salable mineral extracted from or processed by the mineral property is copper.

History: 1953 Comp., § 72-29-3, enacted by Laws 1973, ch. 258 § 15; 1981, ch. 37, § 53; 1982, ch. 28 § 3; 1990, ch. 125 § 3; 1995, ch. 12 § 9; 2000, ch. 92, § 2; 2000, ch. 94, § 2; 2001, ch. 217, § 1.

7-36-15, NMSA 1978

METHODS OF VALUATION FOR PROPERTY TAXATION PURPOSES; GENERAL PROVISIONS.

A. Property subject to valuation for property taxation purposes under this article of the Property Tax Code [Chapter 7, Articles 35 to 38 NMSA 1978] shall be valued by the methods required by this article of the Property Tax Code whether the determination of value is made by the department or the county assessor. The same or similar methods of valuation shall be used for valuation of the same or similar kinds of property for property taxation purposes.

B. Unless a method or methods of valuation are authorized in Sections 7-36-20 through 7-36-33 NMSA 1978, the value of property for property taxation purposes shall be its market value as determined by application of the sales of comparable property, income or

cost methods of valuation or any combination of these methods. In using any of the methods of valuation authorized by this subsection, the valuation authority shall apply generally accepted appraisal techniques.

C. Dams, reservoirs, tanks, canals, irrigation wells, installed irrigation pumps, stock-watering wells and pumps, similar structures and equipment used for irrigation or stock-watering purposes, water rights and private roads shall not be valued separately from the land they serve. The foregoing improvements and rights shall be considered as appurtenances to the land they serve, and their value shall be included in the determination of value of the land.

D. The department shall adopt regulations in accordance with the procedures in Section 7-38-90 NMSA 1978 to implement the methods of valuation authorized in this article of the Property Tax Code. [Chapter 7, Articles 35 to 38 NMSA 1978].

History: Laws 1973, ch. 258, § 17; 1953 Comp., § 72-29-5; reenacted by Laws 1975, ch. 165, § 2; 1995, ch. 12, § 11.

Cross Reference. – For constitutional provision as to equality in ad valorem taxation, see N.M. Const., art. VIII, § 1

For constitutional provision as to assessment of lands, see N.M. Const., art. VIII § 6

7-36-16, NMSA 1978

RESPONSIBILITY OF COUNTY ASSESSORS TO DETERMINE AND MAINTAIN CURRENT AND CORRECT VALUES OF PROPERTY.

A. County assessors shall determine values of property for property taxation purposes in accordance with the Property Tax Code [Chapter 7, Articles 35 to 38 NMSA 1978] and the regulations, orders, rulings and instructions of the department. Except as limited in Section 7-36-21.2 NMSA 1978, they shall also implement a program of updating property values so that current and correct values of property are maintained and shall have sole responsibility and authority at the county level for property valuation maintenance, subject only to the general supervisory powers of the director.

B. The director shall implement a program of regular evaluation of county assessors' valuation activities with particular emphasis on the maintenance of current and correct values.

C. Upon request of the county assessor, the director may contract with a board of county commissioners for the department to assume all or part of the responsibilities, functions and authority of a county assessor to establish or operate a property valuation maintenance program in the county. The contract shall be in writing and shall include provisions for the sharing of the program costs between the county and the department. The contract must include specific descriptions of the objectives to be reached and the tasks to be performed by the contracting parties. The initial term of any contract authorized under this subsection shall not extend beyond the end of the fiscal year following the fiscal year in which it is executed, but contracts may be renewed for additional one-year periods for succeeding years.

D. The department of finance and administration shall not approve the operating budget of any county in which there is not an adequate allocation of funds to the county assessor for the purpose of fulfilling his responsibilities for property valuation maintenance under this section. If the department of finance and administration questions the adequacy

of any allocation of funds for this purpose, it shall consult with the department, the board of county commissioners and the county assessor in making its determination of adequacy.

E. To aid the board of county commissioners in determining whether a county assessor is operating an efficient program of property valuation maintenance and in determining the amount to be allocated to him for this function, the county assessor shall present with his annual budget request a written report setting forth improvements of property added to valuation records during the year, additions of new property to valuation records during the year, increases and decreases of valuation during the year, the relationship of sales prices of property sold to values of the property for property taxation purposes and the current status of the overall property valuation maintenance program in the county. The county assessor shall send a copy of this report to the department.

History: 1953 Comp., § 72-29-6, enacted by Laws 1973, ch. 258 § 18; 2000, ch. 10 § 1.

3.6.5.23 (C) “Current and correct values of property” defined:

Assessors shall re-appraise properties either once per year (one-year reappraisal cycle), or once every two years (two-year reappraisal cycle). Assessor’s may only change the current reappraisal cycle in their respective county after written approval is granted by the director. The phrase “current and correct values of property” as used in Section 7-36-16 NMSA 1978 means:

(1) For residential property purchased in the year prior to the current tax year the phrase means its market value during the year of purchase;

(2) For residential property not purchased in the year prior to the current tax year, when utilizing a one year reappraisal cycle, the phrase means its’ market value of the year prior to the current tax year, and

(3) For residential property not purchased in the year prior to the current tax year, and non-residential locally assessed property, when utilizing a two year reappraisal cycle, the phrase means its market value in the tax year 2001 and, for each of the following odd-numbered tax year, its market value during the preceding odd-numbered tax year.
[TRD: 3/23/83; 11/5/85; 5/10/93; 12/29/94; 8/31/96; 4/30/01; 6/13/03]

7-36-21.2, NMSA 1978

LIMITATION ON INCREASES IN VALUATION OF RESIDENTIAL PROPERTY.

A. Residential property shall be valued at its current and correct value in accordance with the provisions of the Property Tax Code [7-35-1 NMSA 1978]; provided that for the 2001 and subsequent tax years, the value of a property in any tax year shall not exceed the higher of one hundred three percent of the value in the tax year prior to the tax year in which the property is being valued or one hundred six and one-tenth percent of the value in the tax year two years prior to the tax year in which the property is being valued. This limitation on increases in value does not apply to:

(1) a residential property in the first tax year that it is valued for property taxation purposes;

(2) any physical improvements made to the property during the year immediately prior to the tax year or omitted in a prior tax year; or

(3) valuation of a residential property in any tax year in which:

(a) a change of ownership of the property occurred in the year immediately prior to the tax year for which the value of the property for property taxation purposes is being determined; or

(b) the use or zoning of the property has changed in the year prior to the tax year.

B. If a change of ownership of residential property occurred in the year immediately prior to the tax year for which the value of the property for property taxation purposes is being determined, the value of the property shall be its current and correct value as determined, pursuant to the general valuation provisions of the Property Tax Code [7-35-1 NMSA 1978].

C. To assure that the values of residential property for property taxation purposes are at current and correct values in all counties prior to application of the limitation in Subsection A of this section, the department shall determine for the 2000 tax year the sales ratio pursuant to Section 7-36-18 NMSA 1978 or, if a sales ratio cannot be determined pursuant to that section, conduct a sales-ratio analysis using both independent appraisals by the department and sales. If the sales ratio for a county for the 2000 tax year is less than eighty-five, as measured by the median ratio of value for property taxation purposes to sales price or independent appraisal by the department, the county shall not be subject to the limitations of Subsection A of this section and shall conduct a reassessment of residential property in the county so that by the 2003 tax year, the sales ratio is at least eighty-five. After such reassessment, the limitation on increases in valuation in this section shall apply in those counties in the earlier of the 2004 tax year or the first tax year following the tax year that the county has a sales ratio of eighty-five or higher, as measured by the median ratio of value for property taxation purposes to sales value or independent appraisal by the department. Thereafter, the limitation on increases in valuation of residential property for property taxation purposes in this section shall apply to subsequent tax years in all counties.

D. The provisions of this section do not apply to residential property for any tax year in which the property is subject to the valuation limitation in Section 7-36-21.3 NMSA 1978.

E. As used in this section, "change of ownership" means a transfer to a transferee by a transferor of all or any part of the transferor's legal or equitable ownership interest in residential property except for a transfer:

(1) to a trustee for the beneficial use of the spouse of the transferor or the surviving spouse of a deceased transferor;

(2) to the spouse of the transferor that takes effect upon the death of the transferor;

(3) that creates, transfers or terminates, solely between spouses, any co-owner's interest;

(4) to a child of the transferor, who occupies the property as his principle residence at the time of transfer; provided that the first subsequent tax year in which that person does not qualify for the head of household exemption on that property, a change of ownership shall be deemed to have occurred;

(5) that confirms or corrects a previous transfer made by a document that was recorded in the real estate records of the county in which the real property is located;

(6) for the purpose of quieting the title to real property or resolving a disputed location of a real property boundary;

(7) to a revocable trust by the transferor with the transferor, the transferor's spouse or a child of the transferor as beneficiary; or

(8) from a revocable trust described in Paragraph (7) of this subsection back to the settlor or trustor or to the beneficiaries of the trust.

History: Laws 2000, ch. 10, § 2; 2001, ch. 321, § 1; 2003, ch. 118, § 1.

7-36-21.3, NMSA 1978

LIMITATION ON INCREASE IN VALUE FOR SINGLE-FAMILY DWELLINGS OCCUPIED BY LOW-INCOME OWNERS SIXTY-FIVE YEARS OF AGE OR OLDER OR DISABLED.

A. For 2001 and subsequent tax years the valuation for property taxation purposes of a single-family dwelling owned and occupied by a person who is sixty-five years of age or older and whose modified gross income, as defined in the Income Tax Act, [7-2-1 NMSA 1978], for the prior taxable year did not exceed the greater of eighteen thousand dollars (\$18,000) or the amount calculated pursuant to Subsection C of this section shall not be greater than the valuation of the property for property taxation purposes in the:

- (1) 2001 tax year;
- (2) year in which the owner has his sixty-fifth birthday, if that is after 2001; or
- (3) tax year following the tax year in which an owner who turns sixty-five or is sixty-five years of age or older first owns and occupies the property, if that is after 2001.

B. For the 2003 and subsequent tax years, the valuation for property taxation purposes of a single-family dwelling owned and occupied by a person who is disabled and whose modified gross income, as defined in the Income Tax Act, for the prior taxable year did not exceed the greater of eighteen thousand dollars (\$18,000) or the amount calculated pursuant to Subsection C of this section shall not be greater than the valuation of the property for property taxation purposes in the:

- (1) 2003 tax year;
- (2) year in which the owner is determined to be disabled, if that is after 2003; or
- (3) tax year following the tax year in which an owner who is disabled or who is determined in that year to be disabled first owns and occupies the property, if that is after 2003.

C. The limitation of value specified in Subsections A and B of this section shall be applied in a tax year in which the owner claiming entitlement files with the county assessor an application for the limitation on a form furnished to him by the assessor. The application form shall be designed by the department and shall provide for proof of age or disability, occupancy and income eligibility for the tax year for which application is made.

D. For 2002 tax year and each subsequent tax year the maximum amount of modified gross income in Subsections A and B of this section shall be adjusted to account for inflation. The department shall make the adjustment by multiplying the maximum amount for tax year 2000 by a fraction, the numerator of which is the consumer price index ending during the prior tax year and the denominator of which is the consumer price index ending in tax year 2000. The result of the multiplication shall be rounded down to the nearest one hundred dollars (\$100) except that if the result would be an amount less than the corresponding amount for the preceding tax year, then no adjustment shall be made. For purposes of this subsection, "consumer price index" means the consumer price index for all urban consumers published by the United States department of labor for the month ending September 30. The department shall publish annually the amount determined by

the calculation and distribute it to each county assessor no later than December 1 of each tax year.

E. The limitation of value specified in Subsections A and B of this section does not apply to:

(1) a change in valuation resulting from any physical improvements made to the property during the year immediately prior to the tax year or a change in the permitted use or zoning of the property during the year immediately prior to the tax year; or

(2) a residential property in the first tax year that is valued for property taxation purposes.

F. As used in this section, “disabled” means a person who has been determined to be blind or permanently disabled with medical improvement not expected pursuant to 42 USCA 421 for purposes of the federal Social Security Act or is determined to have a permanent total disability pursuant to the Workers’ Compensation Act [52-1-1 NMSA 1978].

History: Laws 2000, ch. 21, § 1; 2001, ch. 321, § 2; 2003, ch. 78, § 1.

Note: For 2008 the modified gross income is \$21,600

7-38-4, NMSA 1978

CONFIDENTIALITY OF INFORMATION

A. Except as specifically authorized in this section or as otherwise provided by law, it is unlawful for the secretary, any employee or any former employee of the department to reveal to any person other than the secretary, an employee of the department, a county assessor or an employee of a county assessor any information gained during his employment about a specific property or a property taxpayer gained as a result of a report or information furnished the department or a county assessor by a taxpayer or as a result of an examination of property or records of a taxpayer. Except as specifically authorized in this section or as otherwise provided by law, it is unlawful for any county assessor or any employee or former employee of a county assessor to reveal to any person other than county assessors or their employees or the secretary or an employee of the department any information furnished by the department about a specific property or property owner or any other information gained during that person’s employment about a specific property or a specific property taxpayer gained as a result of a report or information furnished the department or a county assessor by a taxpayer or as a result of an examination of property or records of a taxpayer. Information described in this subsection may be released:

(1) that is limited to the information contained in those valuation records that are public records and the identity of the owner or person in possession of the property;

(2) to an authorized representative of another state; provided that the receiving state has entered into a written agreement with the department to use the information for tax purposes only;

(3) to a state district or appellate court or a federal court or county valuation protests board:

(a) in response to an order made in an action relating to taxation in which the state or governmental unit is a party and in which the information is material to the inquiry; or

(b) in any action in which the department or a county is attempting to enforce the provisions of the Property Tax Code [Articles 35 to 38 of Chapter 7 NMSA 1978]

or to collect a property tax or in any matter in which the taxpayer has put the taxpayer's own property valuation or liability for taxes at issue;

(4) to the property owner or a representative authorized in writing by the owner to obtain the information;

(5) if used for statistical purposes in a way that the information revealed is not identified or identifiable as applicable to any property owner or person in possession of the property;

(6) to a representative of the secretary of the treasury or the secretary's delegate pursuant to the terms of a reciprocal agreement entered into with the federal government for exchange of such information; or

(7) to the multistate tax commission or its authorized representative; provided that the information is used for tax purposes only and is disclosed by the multistate tax commission only to states which have met the requirements of Paragraph (2) of this subsection.

B. The secretary, any employee or any former employee of the department or any other person subject to the provisions of this section who willfully releases information in violation of this section is guilty of a misdemeanor and shall be fined not more than one thousand dollars (\$1,000) or imprisoned for a definite term of less than one year or both. Any person convicted of a violation of this section shall not be employed by the state for a period of five years after the date of conviction.

History: 1953 Comp. § 72-31-4, enacted by Laws 1973, ch. 258, § 44; 1977, ch. 249, § 61; 1982, ch. 28, § 7; 1986, ch. 20, § 113; 1990, ch. 22, § 2; 1991, ch. 166, § 7.

3.6.7.11 Confidentiality of information.

A. **Inspection of public records law.** The provisions of Section 7-38-4 NMSA 1978 constitute an exception to Section 14-2-1 NMSA 1978, which provides for the inspection of public records.

B. **Requests for information.** All requests for information, including requests for information to be used for statistical purposes, which may lawfully be released by the department, must conform to the requirements of the Inspection of Public Records Act [Chapter 14, Article 2 NMSA 1978]. Requests must be sufficiently specific to identify the property or properties to which the request relates.

C. **Information, which may be released by the department.** Pursuant to a request in compliance with Subsection B of Section 3.6.7.11 NMAC, any information associated with the property required by law to be contained in the valuation records may be released, except as provided otherwise by Subsection E of Section 7-38-19 NMSA 1978. **[TRD: 3/23/83; 12/29/94; 8/31/96; 4/30/01]**

7-38-6, NMSA 1978

PRESUMPTION OF CORRECTNESS.

Values of property for property taxation purposes determined by the division or the county assessor are presumed to be correct. Determinations of tax rates, classification, allocations of net taxable values of property to governmental units and the computation and determination of property taxes made by the officer or agency responsible therefore under the Property Tax Code [Articles 35 to 38 of Chapter 7 NMSA 1978] are presumed to be correct.

3.6.7.13 Effect of the presumption of correctness.

A. To overcome the presumption of correctness provided in Section 7-38-6 NMSA 1978, the taxpayer has the burden of coming forward with evidence showing that values for property taxation purposes determined by the division or the county assessor or determination of tax rates, classifications, allocations of net taxable values of property to governmental units and the computation and determination of property taxes made by the officer or agency responsible there for under the Property Tax Code [Chapter 7, Articles 35 to 38 NMSA 1978] are incorrect. Failure to present evidence tending to dispute the factual correctness of the above determinations in any hearing pursuant to the provisions of the Property Tax Code may result in a denial of relief sought by a taxpayer.

B. Where the only evidence presented by the taxpayer is the purchase price of the property which is the subject of the dispute over value for tax purposes and the evidence of comparable sales indicates the sales price was not the market value, the presumption of correctness of the determination of the division or the county assessor is not overcome.

C. Once the presumption of correctness is overcome, the burden of showing a correct valuation shifts to the division or to the county assessor. [TRD: 3/23/83; 12/29/94; 8/31/96; 4/30/01]

***Exception:** In the case where special method of valuation, agricultural, has been applied to a property in any one of the three prior years, and the assessor is now claiming non-agricultural use, the burden of proof is on the assessor; therefore the assessor should present testimony first at the hearing.*

****See Section 7-36-20 (A), NMSA, 1978****

7-38-19, NMSA 1978

VALUATION RECORDS

A. The county assessor shall maintain a record of the values determined for property taxation purposes on all property within the county subject to valuation under the Property Tax Code [Articles 35 to 38 of Chapter 7 NMSA 1978], whether the values are determined by the county assessor or the department.

B. The department shall maintain, in addition to the county assessors' records, a record of the values determined for property taxation purposes on all property subject to department valuation under the Property Tax Code.

C. Valuation records shall contain the information required by the Property Tax Code and regulations of the department.

D. Except as provided otherwise in Subsection E of this section, valuation records are public records.

E. Valuation records that contain information regarding the income, expenses other than depreciation, profits or losses associated with a specific property or a property owner or that contain diagrams or other depictions of the interior arrangement of buildings, alarm systems or electrical or plumbing systems are not public records and may be released only

in accordance with Paragraphs (2) through (7) of Subsection A of Section 7-38-4 NMSA 1978.

History: 1953 Comp., § 72-31-19, enacted by Laws 1973, ch. 258, § 59; 1982, ch 28, § 12; 1991, ch. 166, § 8.

7-38-24, NMSA 1978

PROTESTING VALUES, CLASSIFICATION, ALLOCATION OF VALUES AND DENIAL OF EXEMPTION OR LIMITATION ON INCREASE IN VALUE DETERMINED BY THE COUNTY ASSESSOR.

A. A property owner may protest the value or classification determined by the county assessor for his property for property taxation purposes, the assessor's allocation of value of his property to a particular governmental unit or denial of a claim for an exemption or for a limitation on increase in value by filing a petition with the assessor. Filing a petition in accordance with this section entitles the property owner to a hearing on his protest.

B. Petitions shall:

(1) be filed with the county assessor on or before:

(a) the later of April 1 of the property tax year to which the notice applies or thirty days after the mailing by the assessor of the notice of valuation if the notice was mailed with the preceding year's tax bill in accordance with Section 7-38-20 NMSA 1978;

(b) thirty days after the mailing of a property tax bill on omitted property pursuant to Section 7-38-76 NMSA 1978; or

(c) in all other cases, thirty days after the mailing by the assessor of the notice of valuation;

(2) state the property owner's name and address and the description of the property;

(3) state why the property owner believes the value, classification, allocation of value or denial of a claim of an exemption or of a limitation on increase in value is incorrect and what he believes the correct value, classification, allocation of value or exemption to be; and

(4) state the value, classification, and allocation of value or exemption that is not in controversy.

C. Upon receipt of the petition, the county assessor shall schedule a hearing before the county valuation protests board and notify the property owner by certified mail of the date, time and place that he may appear to support his petition. The notice shall be mailed at least fifteen days prior to the hearing date.

D. The county assessor may provide for an informal conference on the protest before the hearing.

History: 1953 Comp., § 72-31-24, enacted by Laws 1973, ch. 258, § 64; 1974, ch. 92, § 12; 1981, ch. 37, § 73; 1997, ch. 130, § 1; 2001, ch. 24, § 2; 2003, ch. 95, § 1.

3.6.7.33 Protesting values, classification, allocation of values and denial of exemptions determined by the county assessor.

A. **Form of petition.** The following is an acceptable form of petition for protesting values and other determinations by the county assessor:

To: _____ County Assessor Date _____

I hereby state that my full name is my address is _____

and I am the owner of the following described property: _____

Property Code No. _____

Legal Description _____

I further state that the valuation and/or classification and/or denial of an exemption in regard to my property is incorrect because _____

I believe the correct classification of my property is: _____

I believe the following exemption applies to the property: _____

I believe that total correct valuation of my property is: \$ _____

I further state that the following total amount of valuation: _____, is not in controversy because I agree with that valuation or portion of that valuation placed on my property.

I further state that I received a Notice of Valuation from the _____ County Assessor on the following date: _____

I state that I understand that the County Assessor, upon receipt of this petition, is required to schedule a hearing before the County Valuation Protest Board. I understand that I must provide evidence and/or have witnesses at the hearing. I (do) (do not) request that the _____ County Assessor provide for an informal conference with me after setting a hearing on the protest but before the date of the hearing.

Signature of Protestant

OR.....
I hereby withdraw my protest this date:

_____, _____
Month Day Year

Signature of Protestant

7-38-25, NMSA 1978

**COUNTY VALUATION PROTESTS BOARDS; CREATION;
DUTIES; FUNDING.**

A. There is created in each county a “county valuation protests board”. Each board shall consist of three voting members. Three alternates shall also be appointed to serve as voting members in the absence of a voting member. Voting members and alternates shall be appointed as follows:

(1) one member and one alternate shall be a qualified elector of the county and shall be appointed by the board of county commissioners for a term of two years;

(2) one member and one alternate shall be a qualified elector of the county, shall have demonstrated experience in the field of valuation of property and shall be appointed by the board of county commissioners for a term of two years; and

(3) one member and one alternate shall be a property appraisal officer employed by the department, assigned by the director and shall be the chairman of the board.

B. Members of the board and alternates appointed under Paragraph (1) or (2) of Subsection A of this section shall not hold any elective public office during the term of their appointment nor shall any member or alternate be employed by the state, a political subdivision or a school district during the term of his appointment.

C. Vacancies occurring on the board shall be filled by the authority making the original appointment and shall be for the unexpired term of the vacated membership.

D. The county valuation protests board shall hear and decide protests of determinations made by county assessors and protested under Section 7-38-24 NMSA 1978.

E. Members of the board and alternates when serving as voting members appointed under Paragraphs (1) and (2) of Subsection A of this section shall be paid as independent contractors at the rate of eighty dollars (\$80.00) a day for each day of actual service. The payment of board members and alternates and all other actual and direct expense incurred in connection with protest hearings shall be paid by the department.

History: 1953 Comp., § 72-31-25, enacted by Laws 1973, ch. 258, § 65; 1977, ch. 129, § 1; 1981, ch. 37, § 74; 1982, ch. 25, § 1; 1997, ch. 159, § 1.

7-38-26, NMSA 1978

SCHEDULING OF PROTEST HEARINGS

Before scheduling a protest hearing, the county assessor shall notify the director and assure that the assigned property appraisal officer board member will be made available. The director may assign a property appraisal officer to act as a member of more than one county valuation protests board. He also may establish and publish schedules for hearings on protests in the various counties to make the most efficient use of assigned property appraisal officers and assure the expeditious determination of protests.

History: 1953 Comp., § 72-31-26, enacted by Laws 1973, ch. 258, § 66.

7-38-27, NMSA 1978

**PROTEST HEARING; VERBATIM RECORD; ACTION BY
COUNTY VALUATION PROTESTS BOARD; TIME
LIMITATIONS.**

A. Except for the rules relating to discovery, the technical rules of evidence and the Rules of Civil Procedure for the District Courts do not apply at the protest hearings before a

county valuation protests board, but the hearing shall be conducted so that an ample opportunity is provided for the presentation of complaints and defenses. All testimony shall be taken under oath. A verbatim record of the hearing shall be made but need not be transcribed unless required for appeal purposes.

B. Final action taken by the board on a petition shall be by written order signed by the chairman or a member of the board designated by the chairman. The order shall be made within thirty days after the date of the hearing, but this time limitation may be extended by agreement of the board and the protestant. A copy of the order shall be sent immediately by certified mail to the property owner. A copy of the order shall also be sent to the director and the county assessor.

C. All protests shall be decided within one hundred eighty days of the date the protest is filed. The protest shall be denied if the property owner or his authorized representative fails, without reasonable justification, to appear at the hearing.

D. The board's order shall be dated, state the changes to be made in the valuation records, if any, and direct the county assessor to take appropriate action. The division shall make any changes in its valuation records required by the order.

E. Changes in the valuation records shall clearly indicate that the prior entry has been superseded by an order of the board.

F. The assessor shall maintain a file of all orders made by the county valuation protests board. The file shall be open for public inspection.

G. If an order of a county valuation protests board is appealed under Section 7-38-28 NMSA 1978, the director shall immediately notify the appropriate county assessor of the appeal. Notations shall be made in the valuation records of the assessor and the division indicating the pendency of the appeal.

History: 1953 Comp., § 72-31-27, enacted by Laws 1973, ch. 258, § 67; 1982, ch. 28, § 14.

Cross References. – for rules relating to discovery, see rule 1-026 NMRA et seq.

3.6.7.36 Protest hearings; valuation determined by county assessor.

A. **Protest hearings; withdrawal of protest; failure to appear.** If, at an informal conference pursuant to Subsection D of Section 7-38-24 NMSA 1978 or at any other stage prior to final action by the board, a pending protest is fully resolved with no change resulting [sic] the taxpayer's notice of valuation, the protesting taxpayer or the taxpayer's authorized representative must sign a written document, which may be provided by the assessor, stating that the taxpayer withdraws the protest. The county assessor is to notify the county valuation protest board immediately so that the board may vacate the hearing. Failure to sign the written document withdrawing a protest may result in a hearing of the protest by the board. In the absence of a written withdrawal of protest and in the event that a taxpayer fails to appear at a scheduled hearing before the board, the board may decide the protest against the taxpayer on the basis of the presumption under Section 7-38-6 NMSA 1978.

B. **Protest hearings; discovery; consequences of failure to allow discovery.**

(1) The protestant has the right to discover relevant and material evidence in the possession of the assessor prior to the protest hearing. If the assessor refuses to permit discovery, the county valuation protests board, for the purpose of resolving issues and

disposing of the proceeding without undue delay despite the refusal, may take such action in regard to the refusal as is just, including but not limited to, the following:

(a) infer that the admission, testimony, documents or other evidence sought by discovery would have been adverse to the position of the county assessor;

(b) rule that, for the purposes of the proceeding, the matter or matters concerning which the evidence was sought be taken as established against the position of the county assessor;

(c) rule that the county assessor may not introduce into evidence or otherwise rely, in support of any claim or defense, upon testimony by such party, officer or agent or upon the documents or other evidence discovery of which has been denied; or

(d) rule that the county assessor may not be heard to object to introduction and use of secondary evidence to show what the withheld admission, testimony, documents or other evidence would have shown.

(2) Any such action may be taken by written or oral order issued in the course of the proceeding or by inclusion in the decision of the board. It is the duty of the parties to seek and of the board to grant such of the foregoing means of relief or other appropriate relief.

C. Protest hearings; stipulations of facts submitted to the county valuation protests board.

(1) This format may be used by assessors and protestants in preparing stipulations to be submitted to the county valuation protest board. The format may be varied to meet particular circumstances. Statements should be made in separate numbered paragraphs.

(a) Statement of material facts concerning the protestant:

(i) name of protestant;

(ii) location of property and description of property;

(iii) code number;

(iv) valuation set by assessor;

(v) principal use of the property; and

(vi) amount of valuation not in controversy (this usually will be the amount the property owner contends is the value of the property).

(b) Protest information in accordance with Section 7-38-24 NMSA 1978:

(i) date notice of valuation was mailed;

(ii) date petition was filed (copy of petition may be attached); and

(iii) why the protestant believes the valuation is incorrect and what he believes the correct valuation to be.

(c) Statement of facts supporting what the protestant believes to be the correct valuation (documents may be attached).

(d) Statement of facts supporting the valuation placed on the property by the assessor (documents may be attached).

(e) Relevant correspondence regarding the controversy.

(f) Statement of any additional material facts relating to the controversy.

(2) The format of the stipulation may be shown in the following example:

BEFORE THE HILL COUNTY
VALUATION PROTESTS BOARD

In the matter of Smith, Inc.
Petition No. 8612

STIPULATION OF FACTS

Smith, Inc. (hereinafter called "property owner") by and through its attorney, Richard Doe, hereby stipulates and agrees with Mr. John Doe, Hill County Assessor (hereinafter called "assessor"), that the facts and statements set forth below shall be treated as having been conclusively established by competent evidence and further agrees to waive the hearing provided for in Section 7-38-27 NMSA 1978 and let this stipulation constitute the full record of the facts before the Hill County Valuation Protests Board.

1. Property owner owns property in Hill County (insert description of property), Code No. _____. The Assessor placed a value, for property taxation purposes, on the property of \$111,000 improvements and \$111,000 land.
2. The property is used to house the property owner's clothing plant. The value for property taxation purposes of \$5,000 for improvements and \$50,000 for land is not in controversy because the property owner admits this value.
3. The notice of valuation was mailed by the Assessor January 15, 1975 and the petition protesting the valuation was filed with the County Assessor on February 15, 1975. A copy of the petition is attached and marked Exhibit "A".
4. The property owner believes the value for property taxation purposes is incorrect and believes the correct value for property taxation purposes to be \$5,000 improvements and \$50,000 land. In support of this contention, the property owner presents the following facts, which are agreed to by the Assessor, (list supporting facts).
5. The assessor presents the following facts in support of the taxable value the assessor has placed on the property: (list supporting facts).

County Assessor

Property Owner

Date_____

Date_____

D. Protest hearings; special accommodations; advance dissemination of petition.

(1) Any special accommodations or arrangements required under the Americans with Disabilities Act [42 U.S.C. § 12101 et seq.] shall also be determined and made in advance of the hearing.

(2) The Petition filed with the county assessor shall be made available to the board members in advance of the hearing.

E. Protest hearings; conduct of hearing.

(1) The county valuation protests board has the duty to conduct fair and impartial hearings, to take all action necessary to avoid delay in the proceedings and to maintain order in the hearings.

(2) Hearings shall be recorded on audio or videotape unless the board directs recording by stenographic, mechanical or other means.

(3) It is suggested that the hearing be so ordered that the protestant first makes an opening statement and then the county assessor makes an opening statement or reserves it for the conclusion of the protestant's presentation. The protestant presents evidence through testimony of witnesses and the introduction of documents. Then the assessor presents evidence in the same manner. The board may allow each party a closing statement.

***Exception:** In the case where special method of valuation, agricultural, has been applied to a property in any one of the three prior years, and the assessor is now claiming non-agricultural use, the burden of proof is on the assessor; therefore, the assessor should present testimony first at the hearing.*

*** See Section 7-36-20 (A), NMSA 1978***

F. Protest hearings; preliminary matters.

(1) At the beginning of the hearing, the protestant, the protestant's representative or representatives, if any, all other persons present, the property and the amount of valuation in controversy shall be identified. The petition of the protestant filed with the county assessor shall be entered into the record.

(2) The county valuation protests board will confirm that any special accommodations or arrangements required under the Americans with Disabilities Act [42 U.S.C. § 12101 et seq.] have been made.

(3) The board shall inform the protestant of the following:

(a) Other than the rules related to discovery, neither the technical rules of evidence nor the Rules of Civil Procedure for the District Courts apply to the board's proceedings.

(b) The legal presumption is in favor of the valuation placed on the property by the county assessor and the protestant has the burden of presenting evidence to overcome this presumption.

***Exception:** In the case where special method of valuation, agricultural, has been applied to a property in any one of the three prior years, and the assessor is now claiming non-agricultural use, the burden of proof is on the assessor; therefore, the assessor should present testimony first at the hearing.*

*** See Section 7-36-20 (A), NMSA 1978***

(c) All testimony will be taken under oath.

(d) The protestant will have an opportunity to present oral testimony, either the protestant's own or through witnesses, and that anyone testifying on the protestant's behalf is subject to cross-examination by the county assessor or the assessor's representative and that anyone testifying for the county assessor is also subject to cross-examination by the protestant or the protestant's representative. The protestant may call the assessor or the assessor's employees as witnesses and examine them.

(e) The protestant will have the opportunity to offer into evidence whatever documents the protestant believes necessary. The protestant must have in hand all such documents but copies may be submitted instead of originals.

(f) Documents introduced into evidence before the board may be retained by the board.

(g) A written order deciding the protest will be made within thirty days of the date on which the hearing is concluded. This time limit may not be extended except by agreement of the board and the protestant.

(h) The protestant has the right to appeal the written decision and order of the board in accordance with the Rules of Appellate Procedure. **[See Section 7-38-28 NMSA 1978 and 3.6.7.37, following in this Pamphlet.]** Because the appeal is on the record made at the hearing, all evidence supporting all theories and positions of the protestant must be presented at the hearing.

(i) If the protestant appeals the decision of the board, the protestant must pay the costs of preparing the record.

G. Protest hearings; witnesses

(1) All witnesses must be sworn. They may be sworn by any member of the board or any person assisting the board. All witnesses either party intends to have testify may be sworn in at one time. A form of oath which may be used is:

“Do you solemnly swear or affirm that the evidence which you are about to give in the proceedings before this board shall be the truth, and this you do under penalties of perjury?”

(2) All witnesses may be cross-examined by the adverse party.

H. Protest hearings; evidence.

(1) Relevant and material evidence shall be admitted. Irrelevant, immaterial, unreliable or unduly repetitious evidence may be excluded. Immaterial or irrelevant parts of an admissible document shall be segregated and excluded insofar as practicable. The county valuation protests board shall consider all evidence admitted. Board members may use their knowledge and experience to evaluate evidence admitted.

(2) If the protestant and the county assessor have arrived at a stipulation of facts, either party may present the written stipulation to the board. The stipulation shall be signed by both parties or their representatives. The stipulation may present all or a portion of the facts. If all the facts are not agreed to in the stipulation, then either party can establish additional facts at the hearing. If all the facts are stipulated, the board shall note for the record that a stipulation was received, receive oral argument regarding the protest, if any there be, and then take the protest under advisement. The stipulation then is the record of the hearing.

(3) Parties objecting to evidence shall timely and briefly state the grounds relied upon. Rulings of the board on all objections shall appear on the record or in the board's order. Any excluded exhibits, adequately marked for identification, shall be retained in the record so as to be available for consideration by any reviewing authority.

(4) Formal exception to an adverse ruling is not required.

(5) When an objection to a question propounded to a witness is made, the board shall note the objection in the record and allow the testimony. In its discretion, the board shall give appropriate weight to the disputed testimony.

I. Protest hearings; decision of board.

The county valuation protests board may announce orally its decision immediately after all the evidence is presented or may take the matter under advisement. An oral decision of the board is not binding and may not be appealed. All final decisions of the board must be

made by written order. Unless extended by agreement of the board and the protestant, the written order deciding the protest shall be made within thirty days after the date of the hearing. [TRD: 3/23/83, 12/29/94, 8/31/96; 4/30/01]

7-38-28, NMSA 1978

APPEALS FROM ORDERS OF THE DIRECTOR OR COUNTY VALUATION PROTESTS BOARDS.

A. A property owner may appeal an order made by the director or a county valuation protests board by filing an appeal pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

B. The director shall notify the appropriate county assessor of the decision and order of the district court and shall direct the assessor to take appropriate action to comply with the decision and order.

History: 1953 Comp., § 72-31-28, enacted by Laws 1973, ch. 258, § 68; 1982, ch. 28 § 15; 1990, ch. 22 § 3; 1998 ch. 55 § 19; 1999, ch. 265 § 19.

Cross-reference – For procedures governing administrative appeals to the district court, see Rule 1-074 NMRA.

3.6.7.37 Appeal of county valuation protests board decision.

A protestant who wishes to file an appeal of a decision of the county valuation protests board must do so within the time prescribed by Section 39-3-1.1 NMSA 1978 by filing a notice of appeal with the district court for the county in which the hearing was held, pursuant to Sections 7-38-28 and 39-3-1.1 NMSA 1978 and Rule 1-074 NMRA 1999. The county assessor will be named as appellee. [TRD: 12/29/94; 8/31/96; 10/29/99; 4/30/01]

7-38-85, NMSA 1978

EXTENSION OF DEADLINES; GENERAL PROVISION.

The director may extend any deadline in the Property Tax Code [Articles 35 to 38 of Chapter 7 NMSA 1978] for a period of time not in excess of six months. However, this section does not permit the extension of deadlines for an individual property owner nor does it permit successive extensions of a deadline for a cumulative period of more than six months. Extensions may be made applicable to one or more counties. Extension of deadlines authorized by this section shall be made by written order of the director and notice of the extension shall be published in a newspaper of general circulation in each county in the state to which the extension applies once each week for a period of three weeks immediately succeeding the week in which the deadline being extended occurs. When more than one deadline is extended under this section, the notice required to be published may include all extensions, and publication need only be made for the three weeks immediately succeeding the week in which the first deadline being extended occurs.

History: 1953 Comp., § 72-31-85, enacted by Laws 1973, ch. 258, § 125; 1979, ch. 59, § 1.
