

Binding Arbitration

A Viable Option To Lower Property Value

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Multiple articles have been written and over a hundred classes have been presented by me about protesting your property value. An option little discussed due to the complexities is binding arbitration. This option is gaining popularity due to the perception that Appraisal Review Boards (ARB) are not impartial thus it is time to shed some light on this option. First and foremost, do your homework and don't go it alone the first time around.

After an unsuccessful ARB hearing, your choices are to give up (until next year), file a lawsuit in State District Court (a great option for those with an attorney in the family) or apply for binding arbitration. Although this is a costly alternative if you are not successful, the potential benefits may outweigh the cost. In binding arbitration, an impartial, independent third party (the arbitrator) hears and examines the facts from both the property owner and CAD then makes a decision that is binding on both. It works like this...

The ARB will provide an order of determination notice after the formal hearing. If the disputed value does not exceed \$5M (except for residence homesteads for which there is no limit), the taxes have been paid and you have not yet filed a lawsuit, you are eligible for this option. A request for arbitration form, along with a money order or cashier's check made payable to the Comptroller of Public Accounts (fees range from \$450 to \$1,550 depending upon the value and property type) must be mailed or delivered to the CAD within 45 days of receiving the ARB order. The CAD must certify the application and forward the request, payment and ARB order to the Comptroller within 10 days.

After receiving the application for arbitration, the Comptroller will contact you to select an arbitrator from an approved list. The list will include information such as the counties the arbitrator participates in and their profession (lawyer, realtor, surveyor, etc.). You and the appraisal district can agree on up to three arbitrators. If not, the Comptroller will decide. The selected arbitrator will contact you to set up the arbitration which could be in person, by teleconference or via written documentation (both you and the CAD must agree to submission of documents). A property owner from Friendswood recently requested that his arbitration hearing be held at the local library although the CAD wanted a teleconference. Make some suggestions to the arbitrator that are agreeable to you and at locations where you are comfortable. The CAD had the upperhand with the ARB hearing in its offices so the location choice should be between you and the arbitrator.

As in the ARB hearing, you will present your case and the CAD will present the ARB case. Time constraints in an arbitration are not as restrictive as in the ARB hearing so take your time and lay out the entire case. Prepare. Bring evidence and explain why your value is more appropriate than the ARB value. You have the right to hire a property tax consultant, attorney, a real estate broker or agent, appraiser or CPA to attend the hearing with you or on your behalf (if on your behalf, a designation of agent form must be submitted). Having a professional onboard is a good decision if this is your first experience with the process.

The arbitrator will take all of the information presented under advisement and notify you at a later date of the decision. The value could be lowered but not sufficiently to reduce the fee. It could also be left at the ARB value. Winning in arbitration means the value determined is nearer your opinion than the ARB's. In that case, all but \$50 (retained by Comptroller to cover administrative costs) will be refunded to you and the CAD pays the balance of the arbitration fee. The decision of the arbitrator is final and binding on both parties (unless fraud, corruption or wilful misbehavior occurred).

Before making a decision to attempt arbitration, review the abundance of information available on the Comptroller's website. View the "beginner's" video at <https://comptroller.texas.gov/taxes/property-tax/video/2015-arbitration-videos/binding-arbitration-beginners/presentation.html>. Good luck!

Appraisal notices will soon be mailed. If the property value is too high:

1. No later than May 15th call to request an informal meeting with CAD appraiser and present case
2. Unsuccessful? Request formal hearing with ARB
3. Unhappy with ARB decision? File lawsuit OR request binding arbitration

