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**TEXAS PROPERTY TAX  
SCHOOL & APPRAISAL DISTRICTS'  
PROPERTY VALUE STUDY**

JOHN SHARP • COMPTROLLER OF PUBLIC ACCOUNTS

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**1991  
How to Protest**





# How to Protest the Preliminary Findings of the 1991 Property Value Study

January 1992

This booklet is mailed with the Comptroller's 1991 preliminary findings to each independent school district (ISD), county education district (CED) and appraisal district. It describes the protest process and makes suggestions about how you can make the best possible protest, should you feel the need to do so. When the word "district" is used in this report, it refers to both an ISD and a CED.

### Who can protest preliminary study findings?

The Education Code gives districts the right to protest the Comptroller's preliminary findings of taxable property value. Comptroller rules give districts 40 days after the date that the preliminary findings are certified to the Commissioner of Education to protest. The Comptroller is required to hear district protests and make final value decisions in time for the Texas Education Agency (TEA) to use the findings to distribute state funds.

A new provision in the Education Code gives some taxpayers a right to protest. A property owner may protest if his property is used as a category sample in a school district study and the tax liability on all the owner's property in the district's category is \$100,000 or more. The law does not, however, give the property owner the right to appeal the final decision on his protest to district court.

By administrative rule, the Comptroller allows appraisal districts to protest appraisal ratio findings in the same manner that districts can protest preliminary value findings, although the law does not give appraisal districts the right to protest the ratio study or the right to appeal the final decision to district court.

The procedural rules combine the school, county education, and appraisal districts' protests into a single hearing. In other words, an appraisal district that is protesting the median level of appraisal will give evidence to the hearing examiner at the same time that a district within that appraisal district protests its taxable value findings.

### When will 1991 study protests take place?

For the 1991 Property Value Study, the Comptroller certified the preliminary findings of district values to the Commissioner on January 31, 1992. **Districts, appraisal districts and property owners planning to protest must file a petition by March 11.** Hearing examiners will hear the protests in May. After these hearings, districts may file exceptions to the examiners' proposed decisions. Final reviews of the proposed de-

isions, based on the written exceptions, will occur in June. The Comptroller will certify final results to the Commissioner on July 1, 1992.

### Summary of the process

The box below contains a summary of the important steps that relate to the 1991 study protest process, which is described in detail in the rest of this booklet. This summary can serve as a quick reference to the process.

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Districts have 30 days from the date the notice is mailed to file a court appeal. Districts must file suit in Travis County District Court asking the court to review the case. If you do not file suit, the values are final. Appraisal districts and property owners have no right to court appeal.	



## Step 1. Reviewing the Preliminary Findings

Each chief appraiser, school superintendent, CED administrator and property owner should carefully review the preliminary findings to determine if the value or ratio is in error. Cooperation between districts and appraisal districts will be essential throughout the process. At a minimum, you should pay close attention to the following:

### Are there clerical errors in the sample properties?

- Are the correct appraisal roll values listed?
- Is each sample property located in the right district?
- Are the selling prices and dates of sale correct?
- Are the ages of the improvements and square footages correct? (The age of an improvement should not be a factor for protest by itself. Age is relevant only if it affects depreciation.)

### Do the property samples accurately represent the category?

- As far as you know, are the sales included in the samples arm's-length transactions?
- Does the sample fairly represent all areas of the district?
- Does the sample include a range of building types and ages?
- Does the sample include a range of property values within the category?
- Does the sample reasonably represent market conditions that existed on January 1 of the study year?

### Do the "averages" for the samples seem appropriate for your district?

- Is the average value per square foot or per acre used in appraisals about right?
- Is the average value per parcel or per structure accurate? (Divide the total category value by the number of parcels or accounts in the category.)

### Do the appraisal ratios seem reasonable?

- Given the last time the category was reappraised, do the ratios appear reasonable?
- If the school, county education, or appraisal district has a ratio study of its own, are the ratios comparable?

Any errors you find during this early part of your review may not be considered during the staff review unless they are submitted as part of a protest petition along with evidence showing the errors. Write down any errors you find on the appropriate "Sale/Appraisal Ratio Study" form or an equivalent form and deliver it to the Comptroller's Property Tax Division Manager along with any other protest evidence by March 11, 1992.

Although preliminary findings are not mailed to property owners whose properties appear in the Comptroller's samples, individual owners may request information concerning values placed on their properties to determine if they wish to protest these values. If you wish to obtain such information, contact either the Supervisor for Technical Properties or the Supervisor for Local Properties, depending on the category into which the property falls. See the organization chart on page 3.

## Step 2. Preparing Protest Evidence

Remember, the only way to have your preliminary findings changed is to file a protest petition with the Property Tax Division Manager. Division staff will review all evidence and make recommendations to you for resolving the protest. Thus, you may resolve your protest without appearing before a hearing examiner.

Chief appraisers should keep in mind that all evidence submitted by appraisal districts should be organized on an ISD and/or CED basis for the hearing examiners to consider the evidence efficiently. Organizing your evidence by district allows the hearing examiners to observe the effect of appraisal district evidence on district values.

If you protest, remember also that you cannot appear at a hearing and present new evidence. Until March 11, you can amend your petition or submit

additional evidence that tends to prove a district's taxable value or an appraisal district's level and uniformity of appraisals.

Remember also that the evidence you submit may affect other districts. If the preliminary findings of your ISD's and/or CED's values change as a result of a protest, the appraisal district's median level and coefficient of dispersion (COD) may also change. Evidence submitted by an appraisal district might also affect the value findings of one or more of its member districts because each appraisal district is evaluated using the same sales and appraisals used to determine taxable values of its component districts. An appraisal district protest to add or delete sample properties could result in changing the confidence interval computations for an ISD so that a finding of local value would no longer be valid. Remember also that ISD values are determined using a weighted mean appraisal ratio, whether stratified or non-stratified, and that appraisal districts are evaluated using a median appraisal ratio.

### Protest Questions

The Valuations Section is headed by an Area Manager, who reports to the Property Tax Division Manager. Two Supervisors report to the Valuations Area Manager: one Supervisor is in charge of Local Properties, and one is in charge of Technical Properties. The Coordinators for Field Review, Residential/Commercial and Land Studies report to the Local Properties Supervisor. The Technical Properties Supervisor oversees Minerals, Industrial and Utilities. The Reports and Audits Coordinator reports to the Area Manager.

The organizational chart on page 3 shows the names and phone numbers of these individuals. Address policy matters to the Area Manager for Valuations or the Division Manager. Address specific questions about individual protests to the Coordinator in charge of the kind of property being appealed. Direct legal questions to the Division's Legal Counsel.

If you want to find out more about how the protest value study was conducted, you can ask for the following items from the agency:

*Methods Used in the 1991 Property Value Study, 1991 Appraisal Guide and Manual for the Appraisal of Agricultural Land.*

Note: Agency rules do not require



the types of evidence discussed in this section. You may present any evidence for consideration. This section outlines the kinds of evidence the staff looks for in making recommendations for resolving the protest.

Remember, it is critical that you prepare your protest and file your petition, including all of your evidence, by March 11, 1992. Petitions filed or postmarked after March 11 will not be accepted.

This booklet refers throughout to forms the agency provides for protests. These are not currently required by rule; however, the Comptroller has proposed a rule to require the forms. (See the discussion in Step 3 on page 9.) This rule,

if adopted, will require the forms, so you should use these forms when you file your protest.

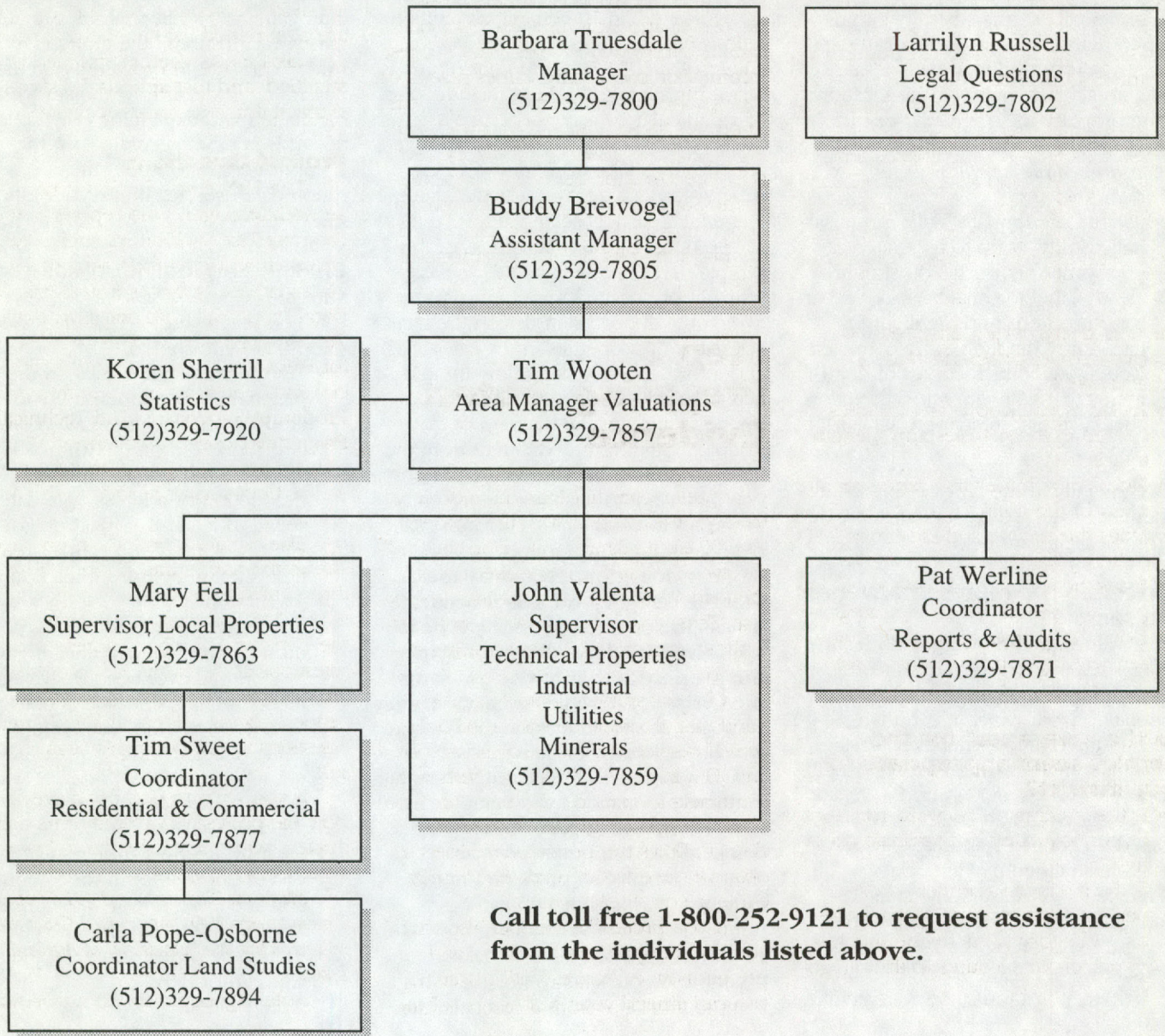
### Correcting a Report of Property Value

In some cases, districts will need to correct errors in the report of property value (the "self report"), since reporting errors will cause errors in the preliminary value findings. Late changes to the appraisal roll may also require changes in the self report. To correct or change a self report after the study's preliminary release, you must file a petition by March 11. You should:

- summarize the requested changes;

- include the corrected pages of the self report;
- include a copy of the appraisal roll real and/or personal property recap, including supplements, showing the correct category values; (If your appraisal district has submitted an appraisal roll containing the information you need, you may refer to it in your submission instead of submitting the recap.)
- include a copy of the exemption recap to correct reported exemptions; and
- include a copy of the agricultural use recap to correct reported productivity valuation data.

## Organizational Chart for Information on Protest Questions





If you discover an error in the breakdown between commercial and industrial property in the self report, submit a revised report, explain the requested changes and submit documentation verifying the requested changes, such as complete recap rolls of commercial and industrial property, appraisal review board orders, summary judgements for value changes, etc.

A correction to the self report may be necessary if you file a protest on other categories. If so, remember to protest the self report and provide the types of evidence listed above to have the error corrected.

### **Protesting Categories A, B, C, D (market value only) and M (mobile homes only)**

#### **Correcting a clerical error**

A clerical error is basically a transcription error, such as an error in the appraisal district value, a date, a sale price, an account number, the location of the property in a particular district and so on. To correct a clerical error:

- you must file a petition before the deadline; and
- use the appropriate "Sale/Appraisal Ratio Study" form to list the entries you want to correct. You should clearly label the sheets as clerical error corrections and highlight for each entry the item to be corrected. You should attach copies of documents that will verify the correction, such as the correct appraisal card, a deed, etc.

Generally, these types of protest are routinely processed by staff and resolved before hearings are held.

#### **Correcting the representativeness of a sample**

A value-stratified weighted mean appraisal ratio is a mechanism to adjust the sample to be representative of the population from which it is drawn. Staff used stratified ratios whenever feasible to estimate market values for residential properties (Categories A and B), vacant lots (Category C) and commercial properties (Categories F1 and L1). These ratios were stratified by value class within each category if reasonably accurate stratification data were available from one of three sources: the 1991 stratification surveys, the 1991 appraisal roll or the 1990 stratification surveys. If stratifi-

cation data were not available from one of these sources, non-stratified weighted mean appraisal ratios were used to estimate market value. (For a detailed discussion of computation of a value-stratified weighted mean appraisal ratio, see the *Methods Used in the 1991 Property Value Study*.)

Comptroller staff asks appraisal districts to fill out and return a stratification survey each year. If you represent a school district, check whether the appraisal district has done so. If a stratification survey has not been submitted for your district, you may submit one with your protest. If the survey data are reasonably accurate, staff will calculate your protest results using a value-stratified weighted mean appraisal ratio. (If the category value totals from the stratification report differ from those shown on the *School District Report of Property Value* by more than 10 percent, a stratified ratio is not calculated. See the *Methods Used in the 1991 Property Value Study*.)

If the sample does not include sales of a particular subcategory (such as brick veneer houses), from a particular area (such as lake front lots or a new subdivision), or from a particular value range (such as lots selling at \$5,000 to \$10,000), the representativeness of the sample may be questionable. To assess whether or not the sample is representative, you will need statistics on the characteristics of properties in the category and information showing how the particular characteristic is distributed over the population. If the makeup of the sample is significantly different from the makeup of all properties in the category, you may want to challenge representativeness. However, the fact that the sample does not include some types of property **does not necessarily mean that the category value is inaccurate unless the omitted property type is appraised at a level different from the properties that have been sampled.** If you believe this is the case, then your protest should include the data on which you base your belief.

The appraisal district may have stratification information by geographic area and major property type. If so, you can compare the distribution of the staff sample to that of all properties in the category. This information can be extremely important in establishing whether sales should be added to balance out a sample's representativeness. If you want to add sales from a particular area

or property type, and you can verify that levels of appraisal differ by area and/or property type, ask the appraisal district to provide you with the area and/or property type stratification information so you can include it with the protest. Be sure to include data verifying differences in the level of appraisal as of January 1, 1991.

Your protest should include a statement detailing your reasons for challenging the representativeness of the sample. Include the statistical data you have showing the problem. It may be helpful to include a comparative analysis for the sample and for the category. The stratification survey is generally considered the best evidence when properties of differing values are on the roll at differing appraisal levels.

If you have conducted an independent ratio study in the district (other than gathering additional sales to submit) you can submit the entire ratio study. You should provide a statement describing in detail how the study was conducted and explaining why your ratio study is more accurate than the Comptroller's ratio study. Include stratification data used to stratify your ratio study.

#### **Challenging individual sales in a sample**

You may want to challenge specific sales. If so, you should:

- List the challenged sales on the appropriate "Sale/Appraisal Ratio Study" form, including all information requested on the form. Show appraisal roll account number, legal description or address, sale date, selling price and 1991 appraisal roll value. Appraisal roll values should reflect value before subtraction of exemptions.
- Attach a statement for each sale indicating why you are challenging it. You should avoid conclusive statements such as "the sale is not representative." Instead, you should include data showing why the sale is not representative. You may want to attach a photograph and a copy of the appraisal card. If the sale is not an arm's-length transaction or involves unusual terms, documentation such as a sales contract or statement from the buyer is helpful.
- Indicate whether you want the sale adjusted or deleted.



## Challenging individual appraisals in a sample

While sales are often the best evidence of appraisal level, samples usually will include appraisals as well, particularly where sales are scarce, property types are underrepresented, or where the district reappraises (or the appraisal review board adjusts) sold properties without reappraising comparable unsold properties. An appraisal should be challenged with the same care and detail the district would put into submitting an appraisal of its own.

- You should list the challenged appraisals on the appropriate "Sales/Appraisal Ratio Study" form, including all information requested on the form. Show the appraisal roll account number, legal description or address, square footage, unit price, percent good, estimated value and 1991 appraisal roll value. If you feel that the appraisal is generally correct, but one or more variables - such as construction class or percent good - are incorrect, you should include corrected variables and recalculate the values and ratios. Highlight or indicate where you have made changes. Appraisal roll values should reflect the value before exemptions are subtracted.
- You should attach a statement for each appraisal indicating why you are challenging it. Avoid conclusive statements such as "this appraisal is not representative," or "the percent good is wrong." If you believe some aspect of the appraisal should be changed, you should indicate all assumptions and sources of the data you used. You should use a generally accepted manual for cost data and identify the manual you used. Staff will not consider these cost schedules in making their recommendations to resolve the protest unless you can demonstrate that they were used to appraise similar properties. Submit all documentation for the schedules you use. You should state and justify your depreciation estimates. You should document your comparable sales and provide a sales adjustment grid. If you use the income approach, your statement should document the data used, as well as the calculation of market rents, vacancies and expenses. You should attach the income and expense analysis you used.

Document capitalization rates with a sales analysis, a band-of-investment analysis or another accepted method. You should adequately explain and document projections of income and expenses. Remember that generally accepted techniques for the conduct of a ratio study do not require use of all three approaches to value.

- If you believe a sample property is not representative, you should explain why and submit documentation.
- You should submit a clear photograph of the property and a copy of the appraisal card for each challenged appraisal. You may need more than one photo to document the property's characteristics. Be sure to keep copies of the photos you send.

## Challenging a time adjustment factor

If you believe the staff's time adjustment factor is wrong, you should submit the following:

- A list of the staff's sample on the appropriate "Sales/Appraisal Ratio Study" form. Complete all data on the form, but substitute your time adjustment factor and recalculate the values and ratios. Highlight the time adjustment factor.
- A resale, matched pair or other analysis supporting your time adjustment factor.

If you are also challenging sales or appraisals, or submitting new sales or appraisals, you should use your time adjustment factor on the "Sales/Appraisal Ratio Study" form you use to list the sales and appraisals and highlight the factor.

## Adding sales to a sample

The staff's samples are constructed under the assumption that sales occurring closer to the assessment date provide the best evidence of market value on that date. Staff started with sales occurring within one month either side of the assessment date and continued adding sales moving outward from that date until the assigned sample size was achieved. Appraisals are included to ensure a representative sample and to ensure an adequate sample size when sales are lacking. Generally, you will have the most effective argument for

adding your sales if your evidence shows that your sales maintain or enhance the sample's representativeness; that your sales are accurate, arm's-length indicators of market value; and that you selected your sales without bias.

- You should list all sales on the appropriate "Sales/Appraisal Ratio Study" form, including all information requested on the form. Show appraisal roll account number, legal description or address, sale date, selling price and 1991 appraisal roll value. Appraisal roll values should reflect value before subtraction of exemptions.
- Only arm's-length transactions should be included. According to the International Association of Assessing Officers (IAAO), non-arm's-length sales should not be used in a ratio study. Some typical examples of non-arm's-length sales, according to the IAAO, are as follows:
  - ◆ Sales involving courts, governmental entities or public utilities. These are generally forced sales, such as condemnation or tax sales.
  - ◆ Sales involving charitable, religious or educational institutions. These are often full or partial gifts and thus not representative of market value.
  - ◆ Sales in which a financial institution is the buyer. These sales are often made in lieu of a foreclosure and are not exposed to the open market. However, open-market sales in which a financial institution is a willing buyer, such as the purchase of vacant land for a branch bank, are likely to be valid. Sales in which a financial institution is the seller should be viewed cautiously but may be valid if made on the open market.
  - ◆ Sales between relatives or corporate affiliates. These are not open-market sales and are usually made at prices favorable to the buyer. Relationships between buyers and sellers are usually best identified by a direct question on the affidavit of value or sales questionnaire. (A difference in surnames is never a sufficient indication of no relationship.) Occasionally, sales between relatives do represent market value, particularly in rural areas where blood



relationships among landowners are common. Corporate sales often require considerable research to determine legal relationships.

- ◆ Sales of convenience. Sales of this kind are made to change or correct the title or deed. The grantee and grantor may be the same, and the sale price is usually nominal. A review of the deed is usually the best method of identification.
- ◆ Estate sales. Sales in which the buyer is an executor or trustee are usually nonmarket sales at nominal consideration. Sales from an estate may be made to satisfy the debts of the deceased or the wishes of an heir; otherwise, sales in which an estate is the seller may well be valid arm's-length sales.
- Make sure you submit the correct sales price. Staff strongly encourages districts to submit supporting evidence to validate the sales price. Warranty deeds are not good evidence of sales price unless the full consideration is stated. Closing statements, sales agreements, written confirmations and sales reporting service documents are good evidence.
- Unless you are challenging the representativeness of the staff's sample, the best procedure is to include all available arm's-length sales that are not duplicates of the staff's sample properties and that have sale dates within the existing study time frame. If you feel that the range of sale dates included in the sample should be widened or narrowed, submit evidence that your time frame would provide a better indication of the market on January 1. If you feel that some of the sales you submit should not be included in the sample, justify their exclusion.
- You should present data to show how the sample is not representative of the property in that category. (This topic was discussed further under "Correcting the Representativeness of a Sample" on page 4.)
- You should use the staff time adjustment (if any) unless you are protesting the time adjustment factor.
- You should calculate the individual appraisal ratio for each sale and calculate the overall stratified or non-stratified weighted mean appraisal ratio for all sales submitted.

### Adding appraisals to a sample

Though sales data are generally the best evidence you can present, they are sometimes scarce. Therefore, you may choose to submit appraisals of properties as well. Appraisals are more likely to be accepted if performed by an independent expert—someone who follows recognized professional appraisal standards and whose personal interests are not tied to the outcome of the hearing. Again, remember that generally accepted techniques for conducting a ratio study do not require three approaches to value.

Appraisals are difficult to support as evidence because of the assumptions required in the process. Addressing errors or nonrepresentativeness in the sample is usually more efficient than submitting alternate appraisals.

Whether performed by an independent appraiser or by district personnel, appraisals should be submitted as follows:

- Remember that the appraisal date for the study is January 1 of the year in question. You should justify the use of appraisals for other dates and document any time adjustments.
- You should list all appraisals on the appropriate "Sales/Appraisal Ratio Study" form, including all information requested on the form. Appraisal roll values should reflect value before subtraction of exemptions.
- Appraisals are appropriate where there are no sales for a category or the sales available do not properly represent the category. If you want to add appraisals to improve representativeness, you should include data indicating why the staff's sample is not representative (See the discussion of challenging representativeness on page 4.)
- If you plan to submit a number of appraisals, you should check that the properties selected represent an appropriate range of values and property types within the category. You should include a statement indicating how the properties were selected. As with sales, appraisals are unlikely to be accepted, no matter how accurate, if it appears the properties were selected to achieve a particular ratio or value.
- You should submit a clear photograph of the property and copy of the appraisal card for each property appraised. You may need more than

one photo to document the property's characteristics.

- The best course is to submit a supporting statement for each appraisal. The statement should identify the appraiser and describe the appraiser's qualifications. The statement should indicate necessary assumptions and identify data sources, particularly for cost data, income and expenses. The statement should state and support depreciation estimates. It should list comparable sales and include an adjustment grid. If the appraiser used an income approach, the statement should document rent calculation, capitalization rate selection, income projection methods and sources of the data. Finally, the statement should indicate whether the appraisal was performed to estimate market value as of the assessment date.

### Protesting the Productivity Value in Category D: Rural Real Property

The Comptroller developed ratios and values for open-space and agricultural land based on cash and share leases. Generally, additional lease information is the most effective way to protest the findings.

- You should submit as many cash and share leases as possible of typical agricultural operations in each land class. Remember that the lease information for years 1985-1989 is relevant to a 1991 value.
- If you submit share leases, you should document where you obtained the yield, price and cost information.
- If you challenge timber productivity values, you should show your value calculations along with the forest and soil types protested. You might consider submitting recent forest maps.
- If you find errors in the acreage breakdown in your *School District Report of Property Value*, you should document the errors and submit a new report that includes a revised acreage breakdown. (See the discussion on correcting a self report.) If a district protests the acreage breakdown on the self report, this can trigger a productivity protest if staff has adjusted net-to-land values based on the original acreage breakdown.



## Protesting Categories F and L

The study's appraisal ratios and district value estimates for commercial and industrial property are based on four subcategories. Category F1 is commercial real property, and F2 is industrial real property. L1 is commercial personal property, and L2 is industrial personal property.

## Correcting the representativeness of a sample

You should examine the sample to ensure the representativeness of the selected properties. If the sample does not accurately depict the distribution of property within your boundaries, the total estimated values may be affected.

The most effective evidence you could present to challenge representativeness would be a study that supports your contention about the correct distribution of property characteristics. If the challenge is based on the inclusion of properties appraised at a different level than most other properties, you should supply evidence supporting this assertion. See the discussion of representativeness on page 4.

## Challenging individual sales in a sample

You should review all sales to ensure that the appraisal district values are accurate. If any sales in the Category F study include value for property listed in other categories (such as business personal property), the category ratio may be affected, because the staff may be comparing a total sales price to a partial appraisal district value. This typically occurs when an ongoing business is transferred to another party that continues operating the business. All sales should be examined for unusual terms or sales conditions. If these are present, you should supply the appropriate evidence to support your position.

## Challenging individual appraisals in a sample

Challenging appraisals included in the study may create a situation in which the staff and appraisal district must make conclusions without using sales transactions as evidence of the indicated value. In these cases, the most efficient means of structuring a protest would include a detailed examination of the property to identify any erroneous information or appraisal assumptions. Evidence that supports errors identified

in appraisals may include photographs of the real estate or personal property, construction costs, comparative sales analysis or other supportable appraisal techniques.

## Adding sales or appraisals of commercial and industrial properties

If you disagree with the findings for any of the subcategories listed above, you should:

- Follow the same general guidelines for sales information listed in the section of this booklet describing how to protest Categories A, B, C, D, etc.
- Include a copy of the appraisal card showing the property's 1991 appraisal roll value.
- Record sales on the Category F and Category L "Sale/Appraisal Ratio Study" forms.
- If you are submitting a sale of industrial property, detail the circumstances and conditions of the sale and the anticipated future uses of the subject property.
- Include all properties that were part of the sale.
- If you submit independent appraisals, you should follow the guidelines for submitting appraisals listed above.
- If you are protesting particular personal property (Category L) values, the best evidence to provide is actual copies of company accounting records, income tax returns, asset listings showing original costs and dates of acquisition, supportable evidence of year-end inventories and photographs showing inventory levels and equipment conditions. (This is not a suggestion to submit all of this evidence per property, but merely a list of the kinds of evidence that are most beneficial.)
- Depending on circumstances and data availability, staff may trend original cost data for inflation and depreciate the data to recognize remaining economic life.
- You should verify that sample properties are not in a tax abatement or reinvestment zone.

## Protesting Category G: Oil, Gas and Other Minerals

Mineral properties in Texas are usually appraised using the income approach. The appraiser estimates the val-

ue by computing the present worth of a property's expected income using discounted cash flow analysis. Assumptions regarding the size, distribution and duration of expected income flows generally define these estimates. Production decline curve analysis is the evaluative tool normally used to appraise oil and gas properties, while pressure-production decline curve analysis is often used as a supplemental technique for gas properties. These techniques are predicated on the principle that a lease's future performance can be predicted based on its past behavior.

## Challenging individual appraisals in a sample

Projections of future lease production, product prices, lease operating costs and the rate at which future income is discounted to the present (the discount rate) are important variables in the appraisal of mineral properties. Your protest should center on why you believe one or more of these variables as used by the staff was erroneous. Whether local mineral properties are appraised through contract with a professional valuation firm or in-house by appraisal district staff, you should supply the following data:

- Comptroller lease number,
- Railroad Commission (RRC) district number,
- RRC identification number,
- Oil or gas identifier,
- Annual start rate of principle product and forecast scenario,
- Product prices (oil price, gas price) and a description of your assumptions about future prices,
- Lease operating costs (dollars/year) and
- Discount rate.

In addition, the following data would be helpful:

- production-history curve (barrels of oil per month or million cubic feet of gas per month),
- pressure-production decline curve (pressure vs. cumulative gas production or bottom hole pressure /Z factor vs. cumulative gas production) for gas leases and
- water cut vs. cumulative oil production for East Texas oil field leases.

A 10-year monthly schedule of past production for the entire unit (i.e., by Comptroller lease number) would be useful. A rate-time plot of



at least seven years by month would be a minimum to properly evaluate the property.

Please check the appraisal roll values for the properties. If you or your appraisal firm disagree with any of the variables used in the staff's appraisals, you should document the errors or areas of disagreement and file a protest.

### **Correcting the representativeness of a sample**

Staff selects the Category G sample by first selecting from the most valuable leases in the district. The staff then complements this test by randomly selecting from the remaining leases. You may challenge the representativeness of the sample by the same methods discussed earlier under "Correcting the representativeness of a sample."

When submitting additional appraisals, you should be certain that all necessary variables are provided for each property for review by staff. To challenge the inclusion of an individual property in the sample, you should provide adequate documentation demonstrating why the particular property is inappropriately included. In either case, you should provide information about the amount of value and number of parcels for each kind of lease in the district.

### **Protesting Category J: Utilities**

The utility sample in each district is based entirely on appraisals. Comptroller staff appraises each utility company as a unit and then allocates this unit value to the various school districts containing the utility company's property. The staff then compares the allocated values to the appraisal district's tax roll values to develop ratios and taxable values.

The Comptroller will provide copies of utility company appraisals when requested in writing. The unit appraisal may provide sufficient information to identify problems. If you identify problems, you should document them with sufficient evidence to support the change you are requesting.

Some of the investment information staff uses in the allocation is confidential, but a considerable amount of information is not confidential and is provided to help you in your review. Included in the school, county education and appraisal districts' preliminary mailout is a listing of the companies that are in the utility sample. The school district

weighted mean appraisal ratio appears at the bottom of the listing. In addition, the listing provides the company number, appraised value, staff market value estimate and an appraisal ratio for the company tested. A review of this printout will allow you to determine which company's appraisal may be in error. In addition to the information shown on the printout, you may request in writing:

- a table showing company names and numbers,
- a listing of railroad trackage, type of track and assessed values for railroad companies included in your district's utility sample,
- a listing of pipeline company segments included in your district's utility sample, which includes the age, diameter, mileage and assessed values of each segment sampled and
- the unit appraisals of utility companies included in the 1991 Property Value Study.

If you believe the properties included in the study are not representative, you should submit evidence that supports the exclusion of property or the inclusion of additional properties.

When protesting Category J values, you should take the following steps:

- Review the appraisal roll values used to determine if they are correct. If an error is found, you should provide a copy of the appraisal card or appropriate portion of the tax roll along with your protest.
- Review all mileages and other physical characteristics listed on the printout to determine if errors exist. Again, if errors are found, you should provide documentation of the correct information along with your protest.

If you believe that the staff's value or allocation of value is incorrect, you should provide, along with your protest, all necessary evidence to support your belief. This evidence may include:

- your unit value appraisal,
- valuation schedules,
- detailed listings of the physical property,
- investment information and
- other valuation data.

### **Protesting Category O: Residential Inventory Property**

For Category O, you should include a subdivision sale or a discounted cash

flow appraisal of the sample property you wish to protest or of any property you want to add to the sample. Provide market support for the variables used in an appraisal, such as lot retail prices, expenses, discount rate and any others.

If submitting sales, remember that a sale to the final consumer at retail is not an appropriate indicator of residential inventory value. A valid sale in Category O would be from one developer to another or to a builder.

You should be certain that a lot coded as residential inventory by your appraisal district was not mistakenly included in Category C as a sale. If you discover such a mistake, support your protest with documentation that the lot was owned by a developer at the time of sale and was valued as residential inventory.

### **Protesting Individual Properties: Property Owner Protests**

An owner of property included in the Comptroller's Property Value Study samples may protest the study's preliminary findings if the total property tax liability for all of the owner's properties included in the category sample for the school district in which the property under protest is located is \$100,000 or more for the year of the study.

School districts, county education districts, appraisal districts and the property owner are subject to the same general protest petition filing requirements, deadlines and other protest procedures. There are, however, some differences:

- the protest petition must be signed by the property owner and
- the owner must be prepared to show the hearing examiner that the total tax liability on the property or properties included in a school district's category sample is \$100,000 or more. The Comptroller's proposed rules give the hearing examiner responsibility for determining whether the hearing examiner has jurisdiction over the protest. If the owner cannot show the total tax liability is \$100,000 or more for the year of the study, the examiner will not have authority to hear the protest.



## Step 3. Preparing and Filing the Protest Petition

**This section sets out instructions for using the agency's sample protest forms. Proposed rules will require you to use the forms and doing so will help ensure you comply with Sec. 11.86 of the Education Code and the Comptroller's rules concerning the contents of a protest. The forms will help you organize your evidence and present it in a standard format to facilitate review.**

A school district, county education district, appraisal district or property owner must file a petition of protest by March 11 to begin the process of correcting errors in the Comptroller's preliminary findings.

There are five types of protest: a school district protest, a county education district protest, an appraisal district protest, a joint school and appraisal district protest and a property owner protest.

School, county education and appraisal districts may protest study results on the same district separately, because they may be presenting evidence that would result in different ratio and value conclusions. In effect, their protests may be at cross-purposes. In such cases, the school, county education and appraisal districts should submit separate protest petitions, each with a separate agent and separate evidence.

If a district and appraisal district are appealing jointly, they should agree on one agent.

Regardless of the number of categories you are protesting, you should submit only one protest petition. You may have different people presenting evidence for different categories, but you should *not* have a separate agent for each of these categories.

An appraisal district doesn't have to protest—jointly or otherwise—just because one of its component districts is protesting. Likewise, an ISD or CED doesn't have to protest when its appraisal district protests. However, the Comptroller's proposed procedural rules do require you to notify ISDs, CEDs and appraisal districts that may be affected by the outcome of your protest. The purpose behind the notification rule is sim-

ple. Those not planning to protest need to know about protests that may affect them. With this knowledge, an entity can make an informed decision whether to protest.

At a minimum, the petition should reflect the following:

### **Identify the district or appraisal district and the type of protest.**

Provide the name of the school, county education or appraisal district. You must also specify whether you are protesting the Comptroller's findings on behalf of the school, county education, or appraisal district, or some combination thereof.

### **Identify the agent.**

Give the name, address and telephone number of **one** person who is knowledgeable about the petition and will be available. All correspondence regarding the protest will be delivered to that **one** person. Throughout the review process, staff may need to contact the agent with questions about evidence and may need to send letters about staff recommendations for changes to the preliminary findings, hearing dates and notices of decisions after a hearing (if any). The agency needs to know which person having decision-making authority to contact about these matters. The person listed in the petition as the agent does not have to be the person who actually appears at a hearing on behalf of the protesting party.

### **The petition must be authorized by the proper officials.**

The superintendent must sign a school district protest; the chairman of the board of trustees must sign a county education district protest. The chief appraiser must sign an appraisal district protest, and a property owner or his authorized representative must sign his protest. Both the chief appraiser, the superintendent and/or the chairman must sign a joint protest. The signatures must be notarized. The authorization statement does several things:

- it authorizes the protest,
- it appoints an authorized agent (this is the person to whom all official contacts will be directed),
- it states that affected districts and appraisal districts have been notified and
- it states that the information submitted in the protest is true and correct

to the best of the signer's knowledge.

### **Include statements of evidence and affidavits for each challenged category.**

The petition form is a "cover sheet" for the entire protest. For each category you protest, you should include the following:

- A statement of evidence form. This form identifies the category being challenged, describes the types of evidence you have submitted and identifies anyone other than the agent who will present the protest. This sheet also sets out the statement of your grounds for the protest and the value you claim to be correct as required by Sec. 11.86 of the Education Code. In specifying why you believe the Comptroller's preliminary findings are wrong, be specific. Is the category sample not representative? Why? Are the appraisals too high or too low? Why? Is a time adjustment factor incorrect? Why? Are there clerical errors in the data? Why? State what action you want the agency to take. Remember that your statement of grounds must be complete enough to confer jurisdiction on the hearing examiner and a district court. For that reason, it is in your best interest to be clear, detailed and specific in stating your grounds for protest.
- An affidavit of evidence. Each person who prepares evidence for the protest must complete an affidavit of evidence form. One form may cover more than one category if the same person prepared evidence for all categories. The affidavit states that the information submitted is true and correct, and that any ratio studies or analyses of sales or appraisals have been prepared according to generally accepted appraisal practices. The affidavit must also identify any other persons who prepared some part of the evidence under the supervision of the person who signs the affidavit. The affidavit must be notarized. This makes it the equivalent of sworn testimony.
- Submit all evidence and documents you want considered. Generally, you will list sales and appraisals on the appropriate "Sale/Appraisal Ratio Study" forms described above. These and any other supporting



data should be attached to the statement of evidence and affidavit forms.

**Submit the original and two copies of every document and item of evidence with your petition.**

The petition itself is an "evidentiary petition," which means that it must include all evidence that the district and appraisal district will rely on to challenge the Comptroller's preliminary findings. The purpose of this requirement is to give the agency's staff enough time to look at all available evidence and try to resolve a protest without making the

protesting party appear before a hearing examiner.

Remember to organize your evidence by category of property. An appraisal district that challenges the Comptroller's finding of median level should also organize its evidence by school district. That way, the staff and the hearing examiner can easily focus on the individual category property samples being challenged.

A district, appraisal district or property owner may not submit evidence after March 11. The protesting party may not raise issues or present evidence not contained in the petition to either the hearing examiner or in the exceptions to

the proposed decisions. Any petition may be supplemented, changed, or withdrawn before March 11, but not after that date unless the hearing examiner dismisses the petition.

A protesting party may receive **one** extension of up to 10 days. The request must be in writing and the extension must be granted before the March 11 deadline. The examiner may grant an extension only for good cause.

**File the petition on time.**

The petition and evidence must be filed by March 11. A petition is timely if it is addressed to the Property Tax Division Manager, sent by first class mail or express mail and shows a postmark date no later than March 11.

**Staff review and response**

Staff reviews all evidence as petitions are received. More often than not, disputes are settled informally when the staff recommends to the protesting party adjustments to appraisal ratios and market value estimates. Protests that are not resolved through staff review and recommendation are scheduled for a hearing before a hearing examiner. At that point, staff's recommendations have no more force or authority than the protesting party's.

**Step 4.  
Hearings**

The agency will notify each protesting party's agent of the date and time of the hearing.

The hearings are conducted by hearing examiners who have been specifically chosen to hear all protests.

During a hearing, the protesting party may present oral argument to support its challenge. However, the protesting party may not raise an issue that was not specified in the petition and may not present evidence that was not submitted with the petition.

The hearing examiner's decision is based on the evidence and arguments of the protesting party and the Comptroller's staff. The examiner must write down the decision, clearly stating the reasons for the decision. This decision is mailed to the protesting party by certified mail.

**Checklist for Submitting Protests**  
**(All questions should be answered "yes.")**

- 1. Has only one Protest Petition per district been completed, regardless of the number of categories protested?
- 2. Is the Protest Petition signed by the superintendent if it is a school district protest; by the chairman of the board of trustees if it is a county education district protest; by the chief appraiser if it is an appraisal district protest; by all protesting parties if it is a joint district/appraisal district protest; and by the property owner if it is a property owner protest?
- 3. Has the Protest Petition been notarized?
- 4. Has only one agent been authorized for your entire protest? (This is necessary so that the staff will know which **one** person to communicate with about your protest. Others may present evidence.)
- 5. Is there an Evidence Affidavit for each person who prepared evidence?
- 6. Is every protested category listed on an Evidence Affidavit? (More than one category may be indicated on an Evidence Affidavit if a person prepares evidence for more than one category.)
- 7. Have the Evidence Affidavits been signed and notarized?
- 8. Is there a Statement of Protest and Evidence for each category indicated on the Protest Petition?
- 9. Does the Statement of Protest and Evidence describe the grounds of protest sufficiently to confer jurisdiction on the hearing examiner, and does it state the value claimed to be correct?
- 10. Is the evidence arranged by district in category order?
- 11. Have you submitted an original and two copies of all protest materials?



### **Presenting a protest**

If you appear at a protest hearing, you should present your protest following these guidelines:

### **Restrict your comments to issues raised in the statement of grounds.**

You may not introduce evidence not already submitted by March 11, and you may not protest additional categories at the hearing.

### **Present your protest in an orderly fashion.**

Unless directed otherwise by the hearing examiner, support your request by:

- presenting your protest in category order,
- stating the preliminary ratio and value assigned the contested category,
- stating the ratio and value you are requesting and
- summarizing the evidence you have provided.

### **Keep your presentation as brief as possible, emphasizing your main points.**

This will allow time for the hearing examiner to ask questions. You will be expected to observe the time limit established for the hearing, regardless of the number of categories you are protesting.

### **Do not raise issues not relevant to the preliminary ratios and values protested.**

Bringing up irrelevant issues, such as state education aid allocations, will limit the amount of time available for you to discuss your evidence. The hearing examiner can and will only consider making adjustments to preliminary ratios and values based on "hard" evidence.

## **Step 5. Filing Exceptions**

The hearing examiner will prepare and mail to you the proposed decision on your protest. After you receive the proposed decision, you may file written exceptions to it, but you may not submit any more evidence. Other parties will have an opportunity to reply to your exceptions.

The examiner will consider all written exceptions and replies. Based on these documents, he may decide to change the proposed decision. However, he may also decide to let the proposed decision become final without changes.

## **Step 6. Appealing a Final Decision**

The hearing examiner notifies each protesting party of the decision by certified mail. The statutes permit districts to appeal the examiner's decision to the Travis County District Court by filing a lawsuit within 30 days of the date they receive the examiner's decision.

While a district may appeal the Comptroller's decision, property owners and appraisal districts may not. Section 11.86, Education Code, provides only for court protest by districts. So, districts that are working with their appraisal districts should consider submitting either a separate protest petition or a joint protest petition to preserve their right to appeal to district court.

The Property Tax Division has a FAX machine. The division is not able to accept an entire protest package by FAX because of machine limitations. But if you wish to send a few pages of supplemental evidence or other information, the FAX number is (512) 329-7979.











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