

**Board of Assessment Review By-laws:**

Adopted on \_\_\_\_\_, 2023

**ARTICLE I – GENERAL**

1. **Name:** The name of this Board of Assessment Review of the City of Syracuse shall be the Board of Assessment Review, hereinafter also referred to as the “Board” or the “BAR.”
2. **General Governing Rules:** The Board of Assessment Review shall be governed by the provisions of all applicable state statutes, local laws, ordinances, and the rules contained herein.
  - a. Members of the Board shall be considered Public Officers within the meaning of Article 18 of the General Municipal Law and the Code of Ethics of the City of Syracuse.
  - b. Board members may engage in outside employment but shall be subject to disqualification under Article II, Section 1(g) of these rules.
  - c. No person shall be appointed as a member of such board nor shall any member continue as a board member whose real property taxes are in arrears, as defined herein.
    - i. "Real property taxes in arrears" is defined to mean any real property taxes levied and collected by the city of Syracuse which are due and owing for real property owned by the person nominated for appointment to the board or while a member of the board and/or real property owned by such person's spouse and which are unpaid for any tax year prior to the tax year in which the nomination of the person is submitted or the tax year prior to the current tax year in the case of a member of the board. Real property taxes subject to a tax trust agreement as authorized by section 47-a of the Tax and Assessment Act of the city of Syracuse, being Chapter 75 of the Laws of 1906, as amended, and payments to which are current shall not be deemed real property taxes in arrears.
  - d. Members of the Board shall have knowledge of property values within the City of Syracuse.
  - e. Neither the Assessor nor any member of his or her staff may be appointed to the Board.
  - f. Members of the Board shall be required to attend training courses as prescribed by the Assessor and required by all applicable laws, statutes, and ordinances.
  - g. The Board may, from time to time, promulgate rules consistent with state and local laws in the administration of its duties. Such rules may include conduct of public hearings and evidence accepted by the Board in making a determination.
  - h. The Board shall consist of five (5) regular members appointed by the Common Council and approved by the Mayor, except as from time to time as temporary members may be appointed.
    - i. All regular and temporary members are voting members.

- i. Each member shall be appointed for a term of five (5) years, beginning the first day of October and ending on the last day of September five years later. Each member's term shall be staggered to commence in a different calendar year so that no more than one member's term shall expire during a calendar year.
  - i. In the event that multiple vacancies occur during the course of any year, replacement members may be appointed to serve the remainder of any unexpired term arising from such vacancy in the same manner as normal members.
- j. *Temporary Members*: The Board may request that the Common Council appoint temporary members pursuant to RPTL § 523-a.
  - i. Temporary members shall be appointed to one-year terms of office.
  - ii. Temporary members of the BAR may not exceed two times the number of permanent members.
  - iii. Temporary members shall be subject to the same qualifications and disclosure requirements as permanent members.

**3. Officers and Duties:**

- a. *Chairman and vice-chairman*. The board shall elect annually from its members by a majority vote a chairperson, vice chairperson, and secretary. The chairperson, or in their absence or incapacity, the vice-chairman, shall decide all points of order or procedure, may administer oaths, and may compel the attendance of witnesses.
- b. *Secretary*. The Board of Assessment Review shall elect a secretary.
  - i. *Duties*: The secretary shall keep all records, conduct all correspondence of the Board, and supervise the clerical work of the Board. The secretary shall keep a minute book of the proceedings of each meeting and each hearing which shall include the vote (or abstention) of each member on each matter, the names and addresses of all witnesses, a summary of the facts on which the decision is based, the decision rendered, and any other official actions of the board.
  - ii. The secretary shall be required to submit all minutes of hearings to the Clerk of the City in accordance with State Open Meetings Law.
  - iii. In the event that the Board does not elect a secretary, the vice-chair shall perform the duties of secretary.
    - 1. Should the chair be absent or incapacitated, the vice-chair may delegate such duties to a present member of the Board.
- c. *Clerk*. In accordance with part F, section 32-5, Chapter 32 of the revised general ordinances of the City of Syracuse, as amended, the Board may engage a clerk for organizational and administrative purposes.

- i. The clerk need not be a member of the Board and may be a current employee of the Department of Assessment or the Department of Taxation but shall not be an assessor or the head of any permitted Department.
- d. *Corporation Counsel.* The Board may request the presence of an attorney from the Office of Corporation Counsel to be present at grievance proceedings for legal guidance and compliance with state and local laws, statutes, or ordinances.
  - i. Any such attorney present at a grievance proceeding is limited to matters of procedure. Corporation Counsel will not advise on specific or substantive matters within the Board's purview.
- e. *Duties.* The Board shall hear grievances in relation to assessments brought before it in accordance with the provisions of the Real Property Tax Law of New York.
  - i. The Board shall, after hearing complaints, review applications and provided documentation and make a determination regarding the complaint. The Board may dismiss a complaint, deny a request, or reduce an assessment, but may not raise any assessment unless an applicant specifically requests a raise in assessment.

## ARTICLE II - MEETINGS

### 1. Meetings:

- a. *General:* In order to conduct any official business, a quorum of the members of the Board must be present and accounted for in a roll call.
- b. *Quorum:* A Quorum shall consist of three (3) regular voting members of the Board.
  - i. In the event that three voting members are not present, and in accordance with applicable state law, the Onondaga County Treasurer, Chairperson of the Onondaga County Legislature, or Clerk of the Onondaga County Legislature may temporarily serve as members of the Board of Assessment Review.
  - ii. In the event that temporary members are appointed, a quorum shall be a majority of temporary and regular members.
- c. *Electing Officers:* Prior to commencing proceedings in a single calendar year on real property tax assessment grievances, the Board shall elect officers.
  - i. Such meeting need not be publicized pursuant to the State's Open Meetings Law.
  - ii. Each member of the Board shall be compensated equally according to Section 35-4 of the Code of Ordinances of the City of Syracuse; the election or appointment of officers shall not constitute or be considered grounds for unequal compensation.
- d. *Time of Meeting:* Regular hearings shall be scheduled as necessary to hear all grievances and complaints regarding tax assessments brought before it in accordance with the Real Property Tax Law.

- i. Hearings shall be scheduled by the Department of Assessment for all necessary dates after the tentative assessment roll has been published.
- ii. Hearings shall conform with all provisions of the Real Property Tax Law:
  - 1. Hearings shall take place over at least four hours between 8:00am and 5:00pm.
    - a. In the event that multiple days of hearings are scheduled, each hearing day need not be four hours.
  - 2. The Board shall have at least one hearing that is at least two (2) hours that occur after 6:00pm.
    - a. In the event that multiple evening sessions are scheduled, each session need not be two hours.
- e. *Order of business*: The order of business during Grievance Proceedings shall be:
  - i. Roll call
  - ii. Approval of the minutes
  - iii. Public hearings
  - iv. Other business
  - v. Adjournment
- f. *Voting*: All matters shall be decided by roll call vote. The affirmative vote of a majority of present voting members of the Board present shall be required for decisions on:
  - i. Matters involving the reduction or dismissal of tax assessments;
  - ii. Matters requiring public hearings; and
  - iii. Matters involving executive session.
- g. *Disqualification of Members*: Members of the Board may be disqualified for any conflict of interest.
  - i. No member of the Board shall sit in hearing on any matter or vote on any matter in which he or she shall be personally or financially interested, nor shall he or she vote on the determination of any decision unless he or she shall have attended the public hearing thereon.
    - 1. On matters in which a member has a familiar relationship of a grievant or a representative which might create a perception of a conflict of interest, that member need not be disqualified unless the member believes they cannot be impartial in hearing that matter.

- a. If the other members of the Board believe that the conflict renders the member unable to be impartial, the Board may, at its discretion, request the conflicted member to recuse themselves from that specific matter by a majority vote of the remaining Board members.
- 2. Members may be disqualified if participation in a matter creates the perception of impartiality.
  - ii. No member shall be eligible to vote on any matter relating to the assessment of any property in which he has either a direct or indirect interest. An attorney, real estate broker or other agent shall be deemed to have an interest in the property of any client appearing before the Board.

**2. Grievance Proceedings:**

- a. Notwithstanding any contrary provision of these by-laws or applicable state or local laws, the Board must review every grievance filed prior to the date set by the Department of Assessment.
- b. *Matters requiring public hearings.* A public hearing shall be required in all matters involving a grievance on the amount of property taxes assessed by the Commissioner of Assessment.
  - i. Grievances shall be filed with the Department of Assessment in a written complaint presenting the basis on which the assessment is being challenged.
- c. *Notice of hearings.* No complaint shall be heard until after due notice has been given and a public hearing has been held thereon. Due notice of a hearing shall be as follows:
  - i. Notice thereof shall be published once in the official newspaper of the city at least ten (10) days before the date of the hearing.
  - ii. The board shall mail notice of the hearing to the appellant or applicant and/or his attorney or agent at least ten (10) days before the date of the hearing.
- d. *Conduct of public hearings.* Any person may appear in person, by agent or attorney at any public hearing. The order of proceedings in the hearing of each case at a public hearing shall be as follows:
  - i. Standard Conduct:
    - 1. Reading of the tentative assessed value and the claimed assessed value by the Chair.
    - 2. Aggrieved party testimony, including presentation of comparable assessments for residential properties and other evidence supporting the claimed assessed value for residential property taxes. For commercial properties, presentation of assessments or appraisals recognized as a theory of valuation and other such evidence supporting the claimed assessed value.

3. Testimony of the Assessor, including comparable assessments and other evidence supporting the tentative assessed value of the property.
  - ii. The Board may conduct each grievance hearing according to its own procedure, inasmuch as said procedure does not conflict or violate any applicable state or local statute or law.
- e. *Attestation of Truth:* The chairperson or any member of the Board may require any grievant or their designated agent to swear or affirm that his or her statements of fact are true.
- f. *Pre-Proceeding Procedure:* In order to have a grievance or complaint heard, each taxpayer shall submit a grievance form to the Department of Assessment identifying the basis for the grievance on or prior to the deadline set by the Department of Assessment.
  - i. Prior to holding a Grievance Proceeding, the Department of Assessment shall set a hearing date for each grievance.
  - ii. The Board may request reasonable documentation or evidence in support of a claimed assessed value. Such information may include, but is not limited to:
    1. Rents received;
    2. Income and expense statements;
    3. Leases;
    4. Statements of improvements or enhancements to the property.
  - iii. In its discretion and for good cause, the Board may review any late-filed grievance. A late-filed grievance shall be any grievance filed after the deadline set by the Department of Assessment.
    1. Notwithstanding the above part, the Board has no obligation to consider any grievance not timely filed.
    2. The Board shall notify a grievant in writing of its denial of review of a grievance and said notice shall state the grounds for denial.
    3. Any late-filed grievance which is denied review by the Board shall be considered dismissed for failure to prosecute for the purposes of judicial review, provided, however, that the denial was not made on an arbitrary or capricious basis.
- g. *Personal Appearance Required:* The Board may require grievants or their designated agent to appear and present evidence and documentation in support of their complaint.
  - i. The Board may require a grievant or their designated agent to appear for examination if the Board has any questions or issues that cannot be resolved by the grievance or accompanying documentation.

1. Notwithstanding any provisions to the contrary, the Board may, in extenuating circumstances, permit an individual or their agent to not appear without considering such absence against the grievant. Extenuating circumstances include but are not limited to: extreme weather conditions, personal emergencies requiring out-of-state travel, severe illnesses or injuries requiring hospitalization, and state or national emergencies.
- ii. A grievant may designate an agent or representative to appear on their behalf, and any agent may appear with or without the presence of the grievant.
    1. An agent designated by a grievant need not be an attorney but must have knowledge of the property being grieved.
    2. Notwithstanding any rules to the contrary, a grievant or their agent who consistently subjects the Board or its affiliates to verbal abuse or harassing behavior will be prohibited from speaking before the Board. If an individual is prohibited from appearing on behalf of a grievant pursuant to this provision, the grievant may designate an alternate agent or may personally appear.
- iii. A party's failure to appear may be grounds to dismiss a complaint upon request by the Department of Assessment.
  - iv. The Board may dismiss a complaint for failure to comply with the Grievance Proceeding if a grievant willfully refuses to appear, produce reasonably requested documentation in support of their claim, or denies internal access to the premises for inspection.
    1. Refusal to appear, produce documentation, or permit inspection of the premises may be considered evidence of intent to thwart the Board of Assessment Review Grievance Process, regardless of reliance on any third-party advice to the contrary.
      - a. The Board shall determine whether evidence requested by any member is reasonable.
      - b. If a grievant fails to appear for examination, the Board may make a determination limited to the documents and evidence presented at the scheduled hearing.
    2. A grievant who provides documentation in the form of appraisals or comparable property assessments, the grievant may rely on those documents in support of their complaint regardless of their personal presence at such hearing.

- v. The grievant may, at the Board’s discretion and availability, request a rescheduled hearing in such extenuating circumstances. In no circumstance is the Board required to grant a grievant a rescheduled hearing.
- h. *Open Meetings Law*: Each hearing shall be in conformity with the State Open Meetings Law, subject to the following additional permissible circumstances:
  - i. Upon the hearing of all grievances, the Board may enter closed executive session for the express purpose of deliberating on the grievances as presented. Such executive session shall comply with the State Open Meetings Law.
    - 1. Notwithstanding any provision to the contrary, such closed executive session for deliberations may last and be renewed automatically during said deliberations without formal reconvening.
    - 2. During such closed executive session, neither the Assessor, the grievant, nor their respective agents are permitted to attend deliberations. The Board may utilize an attorney from the Office of Corporation Counsel for the purposes of administrative guidance and compliance with applicable law.
      - a. An attorney from the Office of Corporation Counsel shall leave all matters relating to individual grievances up to the discretion and evaluation of the Board and may not speak to the sufficiency of evidence unless the Board has promulgated written rules regarding sufficiency of evidence.
    - 3. Upon the conclusion of deliberations, the Chair shall entertain a motion to exit executive session and reconvene in public session in accordance with Open Meetings Law.

### **ARTICLE III – DETERMINATIONS**

1. **Determinations in General**: The Board shall, after deliberation of all grievances before it, make determinations on grievances.
  - a. *Form of Determinations*: All determinations of the Board shall be by declaration and shall be distributed to interested parties in a letter to each grievant. The basis for the determination of each grievance shall be recorded in the decision and constitute a part of the record thereof.
    - i. For the purposes of efficiency and as permitted by state and local law, the Board may, is not required to vote on each complaint individually, but may organize complaints into like categories and vote on the category as a whole:
      1. Any change to assessment shall be announced and voted on independently of every other change.



- b. *Scope of Determinations*: The Board may, pursuant to Real Property Law § 525(3), lower a grieved assessment or leave the assessment unchanged. Such determinations shall be made on the bases as identified by the grievant and the written complaint:
- c. *Effect of Dismissal*: Any grievance which is dismissed for failure to appear or comply with requests by the Board shall not be eligible for any applied-for exemption or reduction in assessment.
- d. *Deliberations Required*: Pursuant to State Guidance, the Board may not make any adjustment to a specific property without first deliberating on the merits of the adjustment.
- e. *Stipulated Assessments*: Any taxpayer may negotiate a stipulated assessment with the Assessor for the taxpayer's parcel.
  - i. The Board shall review and, if appropriate, ratify such stipulation during deliberations.
  - ii. The Board need not mail a notice of determination to a taxpayer who has stipulated an assessment that has been approved by the Board.

**2. Denial of Reduction or Exemption:** The Board may deny any request for a reduction in assessment or application for exemption.

- a. *Grounds for Denial of Reduction*: The Board may deny a request for a reduction in assessment where the complainant does not provide sufficient evidence to rebut a presumptively valid assessment.
  - i. A denial on the basis of insufficient evidence need not necessarily constitute grounds for dismissal, and a denial for insufficient evidence is not considered a dismissal when the Board is making determinations.
- b. *Grounds for Denial of Exemption*: The Board may deny a request for an exemption where the complainant does not provide sufficient evidence to support a claim of tax-exempt status.

**3. Grant of Reduction or Exemption:** The Board may grant any request for reduction in assessment or exemption where the grievant has provided sufficient evidence to support a reduced valuation or exemption.

#### **ARTICLE IV – MISCELLANEOUS**

**1. Severability:** Any provision of these by-laws which is found to be in any way illegal or unenforceable, such illegality or unenforceability shall not affect any other provision of these by-laws and all other provisions shall be in full force and effect.

2. **Effective Date:** These by-laws shall be effective on the first day of October following their approval by the Board.
3. **Amendments:** These by-laws may be amended during a normal session of the Board and approved by a majority vote of the Board.
  - a. *Effective Date of Amendments:* Amendments shall be effective on the first day of October following their approval by the Board.
  - b. *Amendments Proposed:* Any member of the Board may move to amend the by-laws.
    - i. The member promoting the Amendment shall provide such Amendments in writing prior to any motion to adopt the Amendment.
      1. Such written proposal shall be provided to the Board no less than three (3) days in advance of any motion to adopt the Amendment.
      2. The Board member promoting the Amendment shall answer any reasonable questions regarding the Amendment.
    - ii. Amendments shall be read during open session and are subject to comment prior to their adoption.