LARIMER COUNTY, COLORADO ARBITRATION RULES AND PROCEDURES
Non-Residential Property

1. **SCOPE:** To give taxpayers an alternative to pursuing an appeal of the Board of Equalization's decision through either the Board of Assessment Appeals or the District Court, an arbitration process is hereby implemented pursuant to C.R.S. § 39-8-108.5. Any arbitration hearing is *de novo* as stated under C.R.S. § 39-8-108.

2. **ARBITRATOR LIST:** The Board of County Commissioners will maintain a list of qualified persons who shall act as arbitrators of property valuation disputes. Such list will be kept on file in the office of the Board of County Commissioners. Such list will be updated or revised as deemed necessary by the Board of County Commissioners.

   A. QUALIFICATIONS: To qualify as an arbitrator an individual shall be:

   i. Experienced in the area of property taxation,

   ii. Licensed or certified pursuant to part 7 of article 61 of title 12, C.R.S., and

   iii. Be any one of the following: an attorney licensed to practice law in the State of Colorado; an appraiser who is a member of the institute of real estate appraisers or its equivalent; a former county assessor; a retired judge; a former or current Board of Equalization Referee (who has no prior involvement in the pending case) or a licensed real estate broker.

   B. LIMITATION: No person shall act as an arbitrator of property valuation disputes in any county during any property tax year in which such person represents or has represented any taxpayer in any matter relating to the protest and appeal of property valuation or to the abatement or refund of property taxes.

   C. ACCEPTANCE: Promptly after an arbitrator is selected, he or she shall issue a written and signed acceptance of appointment, oath and agreement regarding payment.

3. **ARBITRATION PROCEDURES:**

   A. FILING: Within thirty (30) calendar days of the Board of Equalization's decision, any taxpayer who plans to pursue arbitration shall notify the Board in writing of his or her intent. Failure to file notice within thirty (30) calendar days shall result in any subsequent arbitration petition filed being dismissed.

   B. SELECTION OF ARBITRATOR: Upon receipt of the taxpayer's notice, the taxpayer shall select an arbitrator from the list on file with the Board of County Commissioners. The taxpayer must select from the list within thirty (30) calendar days from the date the list of arbitrators is made available, and failure to make a selection shall be deemed a withdrawal of the petition and the petition shall be dismissed. The Board of Equalization is presumed to have consented to taxpayer's selection of an arbitrator from the approved list, however once the taxpayer notifies the Board of Equalization of their selection, the Board of Equalization, through their representative, may object within fourteen (14) days to the appointment of the selected arbitrator (generally this may be for a perceived or potential conflict of interest, but may be for any reason). If the Board of Equalization objects, the taxpayer and the representative for the Board of Equalization shall discuss the matter within fourteen (14) days to determine if they can resolve the matter and agree on an arbitrator from the list. In the absence of agreement between the taxpayer and the Board of Equalization, the Larimer County District Court shall select an arbitrator from said list.

C. **PETITION:** Within fifteen (15) calendar days of the date the arbitrator, Board of Equalization and taxpayer sign the Arbitrator Agreement, the taxpayer shall file an Arbitration Petition. One petition must be filed for each schedule number, unless the arbitrator directs otherwise.

The taxpayer's petition shall be accompanied by the following documents:

1) A copy of the Board of Equalization Decision along with any attachments.

2) A notarized Letter of Authorization issued within the past twelve (12) months if an agent will be representing an individual. An entry of appearance from a licensed Colorado attorney who will be representing an entity or individual.

The petition shall contain the following information:

1) Name of petitioner(s);

2) Property in question - address or legal description;

3) The property tax schedule number;

4) Type of property: residential real property or other property;

5) A statement that the deposit toward the arbitrator's fee shall be made upon the arbitrator's determination set forth in Section 3.D.;

6) Issues for arbitration;

7) Estimated time for petitioner to present its case; and

8) Signature and typed or printed name of petitioner, petitioner's address, telephone number, e-mail address (if available), and date petition was signed.

D. **FEES:**

i. Based on the taxpayer's petition, the arbitrator shall issue an order directing the amount the taxpayer shall advance to cover estimated arbitration time and procedural oversight by the arbitrator. The taxpayer shall advance the fee, as determined by the arbitrator, payable to Larimer County, to be held in trust as a deposit to cover the fees and expenses of the arbitration. If a stipulation is reached or the petition is withdrawn at least thirty (30) days prior the hearing, then 100% of the taxpayer's deposit shall be refunded to the taxpayer. If a stipulation is reached, or the petition is withdrawn twenty-nine (29) days or less prior to hearing, or the matter proceeds to hearing, or the taxpayer fails to appear for hearing, the amounts, the arbitrator shall be paid at an hourly rate as set forth in the Arbitration Fee Agreement[1] for all time spent by the arbitrator in preparing for hearing, overseeing the hearing and issuing a decision. If the matter is resolved by stipulation or withdrawn prior to hearing, the parties shall be responsible for an equal share of arbitration fees. If the taxpayer fails to appear, the taxpayer shall be solely responsible for all arbitration fees. If the arbitration proceeds to hearing the fees and expenses shall be paid in accordance with the arbitrator's decision and funds in escrow will be disbursed as provided in the arbitrator's decision.

E. **REPRESENTATION:** If the property owner is an entity it must appear under the representation of an attorney licensed in Colorado, unless it meets the requirements for an exception under C.R.S. § 13-1-127. All individual taxpayers may be represented by an agent or attorney licensed in Colorado if they so choose. The Board of Equalization may have an attorney represent it, a county employee and/or staff of the Assessor's office.

F. **EXCHANGE OF DOCUMENTARY EVIDENCE:** The taxpayer shall disclose all documentation that will be used as evidence (exhibits and list of witnesses) at least fourteen (14) calendar days prior to the hearing. The taxpayer must provide a copy of such documents to both the arbitrator and the representative for the Board of Equalization. The Board of Equalization shall disclose all documentation seven (7) days prior to the hearing. The Board of Equalization must provide a copy of such documents to both the arbitrator and the taxpayer[2]. Three (3) calendar days prior to the hearing all reply documentation pertaining to the evidence submitted must be exchanged among all parties. The parties must provide a copy of any reply documents to the other party and to the arbitrator. These document exchange deadlines may be extended upon the determination of the Arbitrator. Documentary evidence shall be exchanged by email, however the arbitrator may authorize or require a different means of exchange, including but not limited to: mail, Federal Express/United Parcel Service, hand delivery or other electronic means. Failure to comply with disclosure deadlines, without good cause shown, shall bar the arbitrator from considering any documents, exhibits or witnesses not timely disclosed.

[1] Pursuant to C.R.S. § 39-108.5(5)(a) the parties must establish an hourly rate to pay the arbitrator – the referenced fee agreement shall satisfy this requirement.

[2] If the taxpayer is represented by an agent or attorney, all disclosures shall be provided to the representative instead of the taxpayer.

G. HEARINGS:

1) Scheduling - Arbitration hearings shall be held within sixty (60) calendar days from the date the arbitrator and parties signed the Arbitration Fee Agreement. The hearings shall be at a time and place set by the County Commissioner's Office, with the mutual consent of the Arbitrator and Taxpayer, but in every case the arbitration shall be held in Larimer County.

2) Remote - The arbitrator may authorize the hearing to occur through a remote video platform (i.e. Zoom, Teams, Webex). The arbitrator may *sua sponte* direct that the hearing shall occur through remote video platform, or upon motion of any party.

3) Procedure - The arbitrator shall preside at the hearing. All arbitration hearings shall be scheduled for one (1) hour of hearing time, unless the arbitrator approves additional time. Hearing time shall be evenly divided between taxpayer and Board of Equalization.

    a. At the commencement of the hearing, the arbitrator shall inform the parties that they may reserve a portion of their allotted one-half of the time allowed for the entire hearing for rebuttal or closing argument.
    b. Arbitration hearing procedures shall be informal, and strict rules of evidence shall not apply, except as deemed necessary by the arbitrator in the interests of justice. All questions of law and fact shall be determined by the arbitrator. The arbitrator may make other determinations in order to conduct a reasonable and fair hearing.

4) Subpoenas – The parties may informally engage in discovery and witness process. If necessary, parties may apply to the arbitrator for a subpoena for information or witnesses, pursuant to C.R.S. 39-8-108.5(3)(c).

5) Attendance - The taxpayer and the Board of Equalization shall attend and participate, personally or with any attorney or agent as set forth in these rules. Such participation may include the filing of briefs and affidavits as authorized by arbitrator. Upon agreement of both parties, the proceedings may be confidential and closed to the public.

6) Record of proceedings - No record of the proceedings shall be maintained.

H. ARBITRATOR'S DECISION:

The arbitrator's decision shall be in writing and signed by the arbitrator. The arbitrator shall deliver a copy of his/her decision to the parties personally or by certified or registered mail within ten (10) calendar days of the hearing. <u>Such decision shall be final and</u> <u>not subject to review or appeal</u>. The arbitrator's decision shall include:

1) The property tax schedule number;

2) The County Board of Equalization petition number;

3) The title of the document -- “ARBITRATION AWARD”;

4) The full case name;

5) The identities of the parties who were present at the hearing either personally or counsel;

6) A statement of the arbitrator's findings, and that the arbitrator has found in favor of the taxpayer, in whole or in part, or the Board of Equalization, in whole or in part, and against the other party;

7) The change in classification of the subject property, if any;

8) The change in valuation, either increasing or decreasing the value, if any, or affirming the prior valuation of the subject property;

9) The amount of the arbitrator's fees and expenses incurred in the conduct of the arbitration, and which party or parties shall pay those fees within the limitations of these rules and Arbitration Fee Agreement;

10) A signature line for the arbitrator and the date of the decision.