

**LARIMER COUNTY,
COLORADO ARBITRATION
RULES AND
PROCEDURES**

1. **SCOPE:** To give petitioners 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 petitioner 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 petitioner who desires to appeal through arbitration, must file a Petition for Arbitration and the fee required by paragraph 3.D.. The filing of a Petition shall be deemed to have satisfied the statutory requirement of filing a written notice of intent. Failure to file the Petition and required fee within thirty (30) calendar days shall result in the petitioner being prohibited from seeking an appeal through arbitration

B. PETITION: One petition must be filed for each schedule number.

The 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 has been made;
- 6) Reason County Board of Equalization Decision is being appealed to arbitration;(If Issues include an assertion that the property is incorrectly valued, Petitioner must include an assertion as to what they believe is the correct estimated value of the property).
- 7) Estimated time for petitioner to present its case (such estimate is not binding and the Arbitrator may schedule the hearing for any amount of time deemed appropriate); 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.

C. SELECTION OF ARBITRATOR: Upon receipt of the petitioner's notice, the petitioner and the Assessor's Office shall select an arbitrator from the list on file with the Board of County Commissioners, 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. Once the petitioner notifies the Assessor's Office of their selection, the Assessor's Office 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 Assessor's Office objects, the petitioner and the Assessor's Office 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 petitioner and the Assessor's Office, the Larimer County District Court shall select an arbitrator from said list.

- i. **Scheduling property inspection:** Simultaneous with selection of the Arbitrator, the petitioner and Assessor's Office shall schedule an agreed upon time for the Assessor's Office to inspect the subject property and such date should be agreed upon by the parties by the time the Arbitrator is agreed upon. Such inspection date shall be within 30 days after selection of the arbitrator. If the Parties cannot agree upon an inspection date by the time the Arbitrator is selected, the Assessor's Office may specify a reasonable date and time at which the inspection shall occur.
- ii. If the Assessor unilaterally selects the inspection date and time, the petitioner may seek relief by filing a motion with the Arbitrator specifying the reason they are unable to comply with the inspection date and time, why the Parties have been unable to agree upon an inspection date and time, and shall suggest a new inspection date and time. The Assessor's Office is entitled to respond. The Arbitrator may order the inspection occur at the date and time selected by the Assessor, may adopt the new recommended date and time by the petitioner, or may select a new date and time.
- iii. If the petitioner fails to allow inspection at the specified date and time, the Arbitrator may impose any sanction deemed reasonable, up to and including dismissal of the Petition for Arbitration. If the Assessor's Office fails to appear at the specified date and time, the Assessor's Office shall not be entitled to set a new date and time unless the Assessor's Office can demonstrate good cause (good cause in such a situation is an unexpected and unforeseen circumstance such as an illness).

D. FEES:

- i. Residential: the petitioner shall advance \$150, payable to Larimer County, to be held in trust as a deposit to cover the fees and expenses of the arbitration. Fees and expenses shall not exceed \$150 per case as required by C.R.S. § 39-8-108.5(5)(a). If a stipulation is reached or the petition is withdrawn at least fifteen (15) days prior the hearing, then \$150 shall be refunded to the petitioner. If a stipulation is reached or the petition is withdrawn fourteen (14) days or less prior to hearing, then \$75 shall be refunded to the petitioner. If a stipulation is reached, the petition is withdrawn or the petitioner otherwise fails to appear on the day of the hearing, then \$0 shall be refunded to the petitioner. If the arbitration proceeds to hearing the funds in escrow will be disbursed as provided in the arbitrator's decision.
- ii. For any taxable property other than residential real property: Based on the petitioner's petition, the arbitrator shall issue an order directing the amount the petitioner shall advance to cover estimated arbitration time and procedural oversight by the arbitrator. The petitioner 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 petitioner's deposit shall be refunded to the petitioner. If a stipulation is reached or the petition is withdrawn twenty-nine (29) days or less prior to hearing, including on the hearing day, or the petitioner fails to appear for hearing, the amounts of arbitration fees each side shall be responsible for shall be set out in the stipulation, but petitioner shall be responsible for at least 50% of the arbitrator's fee. If the petition is withdrawn at hearing or the petitioner fails to appear, the petitioner shall be responsible for all

arbitration fees incurred up to that point. 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. The parties must establish an hourly rate to pay the arbitrator pursuant to C.R.S. § 39-8-108.5(5)(a).

- 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 petitioners 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. A petitioner who initially declined to be represented may elect to be represented at any time during this process. However, once the date of the arbitration hearing has been scheduled, unless the Parties and Arbitrator agree, such date may not be rescheduled due to a new representative entering an appearance.
- F. EXCHANGE OF DOCUMENTARY EVIDENCE:** The Parties 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. Seven (7) calendar days prior to the hearing all reply documentation pertaining to the evidence submitted must be exchanged among all parties. These document exchange deadlines may be extended upon the determination of the Arbitrator. Documentary evidence may be exchanged via mail, Federal Express/United Parcel Service, fax, hand delivery or electronic means. Failure to comply with disclosure deadlines shall result in the Arbitrator entering an order denying the position of the party failing to comply with disclosure. The arbitrator shall not consider any documents or exhibits not timely exchanged, nor shall witnesses not timely disclosed be allowed to testify.
- G. HEARINGS:**

 - 1) Assignment - Upon payment of the fee as specified in paragraph 3.D. and the filing of the petition (see form of Petition attached), the case will be assigned to the arbitrator selected in accordance with paragraph 3.B.
 - 2) Scheduling - Arbitration hearings shall be held within sixty (60) calendar days from the date the arbitrator was selected. The hearings shall be at a time and place set by the County Commissioner's Office, with the mutual consent of the Arbitrator and Petitioner, but in every case the arbitration shall be held in Larimer County. If the County Commissioner's Office cannot obtain mutual consent within fourteen (14) days for a hearing date from the Arbitrator and Petitioner, the County Commissioner's Office shall set a hearing at a reasonable date and time within the sixty (60) day deadline.

 - a. Continuances – Any scheduled arbitration hearing may be continued upon the agreement of the petitioner and Assessor's Office. A new

arbitration hearing date shall be set by the County Commissioner's Office. It shall be presumed that no continuance shall be greater than fourteen (14) days.

- 3) 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.
- 4) Procedure - The arbitrator shall preside at the hearing. All arbitration hearings shall be scheduled for one hour of hearing time, unless the arbitrator approves additional time. Hearing time shall be evenly divided between petitioner and Assessor's Office.
 - 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.
- 5) 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).
- 6) Attendance - The petitioner and the Assessor's Office 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.
- 7) Record of proceedings - No record of the proceedings shall be maintained.

H. ARBITRATOR'S DECISION:

- i. 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 Petitioner, Assessor's Office and Larimer County Board of Equalization, personally or by certified mail within ten (10) calendar days of the hearing. Such decision shall be final and not subject to review or appeal. 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 petitioner, in whole or in part, or the Board of Equalization, in
7. whole or in part, and against the other party;
8. The change in classification of the subject property, if any;
9. The change in valuation, either increasing or decreasing the value, if any, or affirming the prior valuation of the subject property (increases to valuations are capped at 5% of the value assigned by the Board of Equalization);
10. 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;

NOTE: Arbitrator's fee concerning residential real property shall not exceed \$150.

11. A signature line for the arbitrator and the date of the decision.
- ii. Prior to hearing or after the hearing, if a legal or procedural question arises, the Arbitrator is empowered to decide all such matters, and such decisions shall be final. The Arbitrator may seek a legal opinion from the County Attorney's Office, but such requests should be limited to significant matters only. Any matter referred to the County Attorney's Office by the Arbitrator must also copy the petitioner and Assessor's Office. The County Attorney's Office's response shall be provided to the petitioner and Assessor's Office. The petitioner shall have the right to issue a reply within three (3) business days. If any deadline for the Arbitrator is set to expire within such three (3) business days, such deadline shall be extended an additional three (3) days.