

RULES AND REGULATIONS

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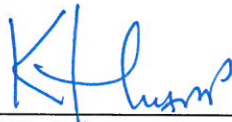
BOARD OF TAX REVIEW

PROPERTY TAX APPEALS

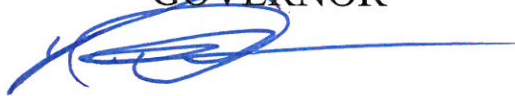
APPROVED

23 DAY OF July 2018

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KENNETH E. MAPP
GOVERNOR



VALDAMIER O. COLLENS
CHAIRMAN
BOARD OF TAX REVIEW

Copy below is hereby certified to be a true and correct copy of
Rules and Regulations adopted pursuant to authority granted in Title
3 V.I.C. § 180, by:

BOARD OF TAX REVIEW



Valdamier O. Collens
Chairman

TITLE 3, CHAPTER 11, SECTION 180 and TITLE 33, CHAPTER 87,
SECTIONS 2451-2455 APPLIES TO THE BOARD OF TAX REVIEW

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180-1 STATEMENT OF PURPOSE

The purpose of these rules and regulations is to regulate and ensure the coordinated, orderly and uniform administration of appeals before the Board of Tax Review and to govern the conduct of hearings and proceedings before the Board of Tax Review.

180-2 AUTHORITY

These rules and regulations are authorized and subject to the provisions of Title 3, Chapter 11, Section 180 of the Virgin Islands Code and Title 33, Chapter 87, Sections 2451—2456 of the Virgin Islands Code and shall have the force and effect of law as provided therein.

180-3 APPLICATION/INTERPRETATION

The interpretation and application of these rules and regulations shall be consistent with the policies and mandates of the statute and construed to secure the just, speedy and inexpensive determination of every appeal, controversy and matter before the Virgin Islands Board of Tax Review.

180-4 DEFINITIONS

(a) “Aggrieved Person” means any person(s) who is dissatisfied with the actions of the Tax Assessor in relation to the assessment of the taxpayer’s property, and who has filed a Notice of Formal Appeal to the Board of Tax Review within the applicable time period as set forth in 33 V.I.C. § 2451(a) and reiterated in these rules and regulations.

(b) “Appeal” means an appeal of the decision of the Tax Assessor by an aggrieved person to the Board of Tax Review.

(c) “Appellant” means an aggrieved person who has a right to appeal to the Virgin Islands Board of Tax Review under Title 33 V.I.C. §2451 (a) and files a written appeal with the Board of Tax Review.

- (d) "Board" means the Board of Tax Review.
- (e) "Board members" or "members" means members of the Board of Tax Review.
- (f) "Chairman" or "Chairperson" means the Commissioner of Finance of the Virgin Islands.
- (g) "Days" means calendar days except when stated otherwise in these rules.
- (h) "Hearing Officer" means a person who has been duly authorized to conduct hearings, compile evidence and make findings of fact to the Board of Tax Review.
- (i) "Quorum" means a majority of the members serving on the Board of Tax Review and present at a meeting of the Board.

180-5 QUORUM

The majority of the members serving on the Board of Tax Review shall constitute a quorum at all meetings. The vote of the majority of the Board members present at a meeting, at which a quorum is present, shall constitute the official action of the Board.

180-6 POWERS OF THE BOARD OF TAX REVIEW

The Board of Tax Review shall have the power to:

- (a) Hold hearings regarding the appeal of any real property tax assessments;
- (b) Decide appeals filed by aggrieved persons before the Board;
- (c) Perform all duties necessary for the speedy, just and efficient determination of appeals;
- (d) Perform such functions as prescribed by law; and
- (e) Perform such duties and functions as the Commissioner of Finance prescribes.

180-7 MEETINGS OF THE BOARD OF TAX REVIEW

(a) All regular meetings of the Board of Tax Review shall be open to the public and the Board shall meet at the discretion of the Chairperson and the members of the Board.

(b) The Board of Tax Review may call an executive session. The Board shall, while in executive session, have present such persons as it may choose to invite who have information pertinent to the subject of the Board's discussion. An executive session of the Board may be called on its own or may precede, follow, or take place during an adjournment or recess of a regular or special meeting.

(c) In extraordinary circumstances and in the Chairperson's discretion, a meeting of the Board of Tax Review may be called within twenty (24) hours of written or telephone notice to all members of the Board.

(d) The meetings of the Board of Tax Review shall be held at such times and places as the Chairperson decides.

(e) When it is not possible for a member of the Board to appear in person at a meeting or hearing before the Board, the Board member may appear telephonically, through video conference or any other electronic means available that allows for contemporaneous and simultaneous communication among all present at a meeting or hearing.

(f) An Appellant, Tax Assessor or a witness may with the approval of the Chairperson of the Board appear at a hearing before the Board of Tax Review or hearing officer either telephonically, through video conference or any other electronic means available that allows for contemporaneous and simultaneous communication among all present at a hearing provided:

- 1) The Chairman of the Board, if good and sufficient cause is shown why the Appellant, Tax Assessor or witness cannot appear in person at a scheduled hearing before the Board or hearing officer, grants the request;
- 2) The Appellant or Tax Assessor agrees to bear the costs, if any, associated with any telephonic, video conference or other electronic means of appearance; and
- 3) The Appellant or Tax Assessor provides the Board or hearing officer with information and documentation that would enable the

Board or hearing officer to verify the identity of the person appearing telephonically, through videoconference or other electronic means.

2451-1 WHO MAY FILE AN APPEAL BEFORE THE BOARD OF TAX REVIEW

(a) A person aggrieved by any action of the Tax Assessor in relation to the assessment of the taxpayer's property may file an appeal to the Board of Tax Review. The following persons may file an appeal on behalf of an aggrieved tax payer:

- 1) If the aggrieved person is a corporation or limited liability company, a duly authorized officer (president, secretary, or treasurer) or designated employee;
- 2) If the aggrieved person is a general partnership, one of the partners;
- 3) If the aggrieved person is a limited partnership, the general partner;
- 4) A corporate officer, duly authorized employee, or partner of a successor entity may represent the aggrieved person where the successor entity acquires title to the property after the issuance of the tax bills and the successor entity is vested with all rights in the property, including the right of appeal;
- 5) If married, either partner can appear on behalf of their spouse for real property held in tenancy by the entirety. The appeal shall be in the name of both owners of the property.
- 6) Any person who is a co-owner of the property that is the subject of the appeal; and
- 7) A duly authorized agent of the aggrieved person pursuant to a power of attorney. See (b) below.
- 8) An attorney at law licensed to practice in the U.S. Virgin Islands.

(b) Any person filing an appeal in a representative capacity on behalf of an aggrieved person shall provide with the appeal such certification or documents under which said person is authorized to act on behalf of the aggrieved person.

2451-2 REPRESENTATION BY AN ATTORNEY

(a) An attorney representing an Appellant before the Board of Tax Review shall provide the Board with the attorney's address, telephone and electronic mail address.

(b) Where an Appellant is represented by an attorney, all documents shall be directed to the appellant's attorney at the address provided by the attorney to the Board.

2451- 3 WHEN TO FILE AN APPEAL

An aggrieved person may file an appeal with Board no later than September 15th succeeding the year for which the assessment is made or, whenever the issuance of property tax assessments is delayed, within the time set forth by Executive Order issued by the Governor setting or extending the date for filing an appeal.

2451-4 FAILURE TO FILE A TIMELY APPEAL

If an aggrieved person fails to file a timely appeal of an assessment with the Board of Tax Review, the appeal shall be dismissed by the Board.

2451-5 HOW TO FILE AND SERVE AN APPEAL

(a) An aggrieved person may obtain a Notice of Formal Appeal form from the Office of the Board of Tax Review or the Office of the Tax Assessor. A Notice of Formal Appeal form can also be downloaded from the Board of Tax Review tab on the Lieutenant Governor's website. An Appellant must also attach proof of payment as required by 2451-6 below.

(b) The Notice of Formal Appeal form shall be filed:

1. By mailing certified mail, return receipt or delivered in person to:

St. Thomas Office

The Board of Tax Review

Department of Finance—Board of Tax Review

2314 Kronprindsens Gade

St. Thomas, V.I. 00802

St. Croix Office

The Board of Tax Review
Department of Finance—Board of Tax Review
40008 Estate Diamond
Lot 7B
Christiansted, V.I. 00820

OR

St. Thomas Office

The Office of the Lieutenant Governor
Office of the Tax Assessor
No. 5049 Kongens Gade
St. Thomas, V.I. 00802

St. Croix Office

The Office of the Lieutenant Governor
Office of the Tax Assessor
No. 1131 King Street
Christiansted, V.I. 00820

OR

2. By **electronic mail** to the Board of Tax Review.

2451-6 MANDATORY PROOF OF PAYMENT OF TAX

When filing an appeal, an Appellant must submit proof of payment of the full amount of the assessment for the tax year previous to that for which the assessment is appealed plus 50% of the difference between the previous year's tax amount and the current tax year's amount. Failure to include proof of such payment with the Notice of Formal Appeal form shall result in the automatic dismissal of the appeal by the Board.

2451-7 WHEN AN APPEAL IS DEEMED DULY FILED

The date on which the Notice of Formal Appeal form is deemed filed shall be the date the form is date-stamped (received) by the Office of the Board of Tax Review or Office of the Tax Assessor. A Notice of Formal Appeal filed by certified mail

shall be deemed filed with the Board as of the date deposited in the United States Postal Service. A Notice of Formal Appeal form filed by electronic mail is deemed filed when sent.

2451-8 EVIDENCE THAT APPELLANT MAY PROVIDE IN APPEAL

(a) The Board encourages the Appellant to attach to the Notice of Formal Appeal form evidence in support of Appellant's basis of appeal. Examples of such evidence are listed below:

1. A list of comparable properties that sold within the tax year being appealed.
2. Any photographs of your property that may demonstrate abnormal deterioration or damage to the property.
3. If available, an independent appraisal of your property. Appraisals are considered, but will not be the sole basis for rendering a decision of value and must reflect the year in which your appeal is made.
4. Any other evidence that may support your opinion of value for the property.

(b) If Appellant does not include this evidence along with the Notice of Formal Appeal form, Appellant is still permitted to present such evidence at the hearing.

2451-9 ADDITIONAL REQUIREMENT FOR COMMERCIAL PROPERTIES

(a) In accordance with the IAAO standards, an Appellant must file a completed Income and Expense Report form along with the Notice of Formal Appeal form, if Appellant's property is commercial. The Income and Expense Report form can be found at the Notice of Formal Appeal form or can be downloaded from the Tax Assessor's website.

(b) Failure to include a completed Income and Expense Report will result in dismissal of Appellant's appeal.

2452-1 TIME FOR HEARINGS

The one hundred twenty (120) day time provision in 33 V.I.C. § 2452 is a directory claims-processing rule, and not jurisdictional in nature. Thus, the Board will retain jurisdiction to hear and adjudicate appeals not heard within the one hundred twenty (120) day time frame.

2452-6 CONTINUANCE OF HEARING

- (a) An Appellant or the Tax Assessor may make a written request for a continuance of a hearing before the Board or hearing officer at least ten (10) days before the date set for the hearing. In the request for a continuance, the Appellant and Tax Assessor shall set forth the grounds and reasons for the continuance.
- (b) Chairman of the Board or hearing officer shall not grant a continuance unless good and sufficient cause is shown, and the requesting party specifies alternate dates for rescheduling the hearing.
- (c) The request for continuance must be served on all parties and must be signed by the party requesting the continuance.
- (d) An opposing party may file with the Board written objections, if any, to a request for continuance.
- (e) Where a continuance has been granted, the Appellant and the Tax Assessor shall be notified of the new hearing date. Notice of the new hearing date may be sent to the Appellant and Tax Assessor in a period less than thirty (30) days before the rescheduled hearing.
- (f) A second objected to request for continuance by a party shall not be granted except in extraordinary circumstances.
- (g) If the first continuance is not objected to by either party, and Appellant and the Tax Assessor both agree to continue the matter in order to continue settlement discussion, both parties must stipulate in writing the desire to continue the matter at least five (5) days before the date set for the hearing.

2453 – 1 CONDUCT OF HEARINGS

- (a) The Chairperson of the Board of Tax Review shall preside at all meetings of the Board.
- (b) All oral testimony at a hearing before the Board or hearing officer shall be under oath or affirmation. Any member of the Board or a hearing officer may swear in persons who testify before the Board.

2453-2 BURDEN OF PROOF

The Appellant has the burden of proof at all hearings before the Board or hearing officer. The Appellant has to show by a preponderance of the evidence that the assessment by the Tax Assessor exceeds the fair market value of the property or is incorrect.

2453-3 ORDER OF PRESENTATION

- (a) The Appellant or Appellant's representative shall be allowed to make a presentation and present testimony, witnesses and documentary evidence in support of the Appellant's appeal. The Tax Assessor shall then be allowed to make a presentation and present testimony, witnesses and documentary evidence in support of the assessment.
- (b) The Appellant or Appellant's representative shall be allowed to cross examine the Tax Assessor and the Tax Assessor's witnesses and the Tax Assessor shall be allowed to cross examine the Appellant or the Appellant's representative and witnesses.
- (c) At any time during the hearing, the members of the Board, in the order recognized by the Chairperson, shall be given an opportunity to question the Appellant or the Appellant's representative and witnesses and also the Tax Assessor or the Tax Assessor's representative or staff and witnesses.
- (d) In the event additional information is required by the Board, the Appellant or Tax Assessor shall furnish such requested information for the Board's consideration within the time set by the Board.

2453-4 RULES OF EVIDENCE

- (a) The strict rules of evidence prevailing in U.S. Virgin Islands Courts shall not apply to the conduct of hearings before the Board and the Board in its discretion may hear any and all evidence which it considers probative and helpful in deciding the appeal.
- (b) The Appellant or Tax Assessor may present any testimony, documents or physical evidence, which in the opinion of the Board is relevant or admissible.
- (c) The Board shall have the power to limit unduly repetitive, irrelevant or cumulative evidence.

2453-5 HEARINGS BY ADMINISTRATIVE HEARING OFFICER

- (a) The Board may designate administrative hearing officers, qualified by training or experience in the areas of law, tax or accounting to conduct evidentiary hearings, compile evidence and establish findings of fact.
- (b) At the evidentiary hearing, the hearing officer shall hear all evidence offered by the parties in the manner set forth in Sections 2453-1 through 2454-5 of these rules and regulations.
- (c) The hearing officer shall submit findings of fact to the Board.
- (d) The Board shall consider the hearing officer's findings of fact, but shall make the final substantive decision in all appeals.

2453-6 BOARD HEARING TO CONSIDER AN ADMINISTRATIVE HEARING OFFICER'S REPORT AND RECOMMENDATION

- (a) The administrative hearing officer's report and recommendation, if any, shall be served on an Appellant ten (10) days before the hearing of the Board.
- (b) Notice of the date, time and place of the hearing at which the Board shall consider the administrative hearing officer's report and recommendation shall be

sent to an Appellant or the Appellant's representative ten (10) days prior to the date of such hearing.

(a) The Appellant may appear and present objections to the administrative hearing officer's report and recommendation.

(d) In the event of a continuance or ongoing proceeding of the Board, the parties may consent to an additional thirty (30) day period for the Board to render a decision. In the event an Appellant withholds consent and the Board in its opinion concludes that additional time is necessary to render a fair and equitable decision, the Board shall advise the Appellant that if consent is not given the appeal shall be denied without consideration.

2453-7 FAILURE TO APPEAR AT AN EVIDENTIARY HEARING

(a) If an Appellant fails to appear at a duly scheduled evidentiary hearing, the appeal may be dismissed by the Board.

(b) Within ten (10) days of receipt of an order of dismissal for failure to appear at an evidentiary hearing, an Appellant for good cause shown may seek to have the order of dismissal set aside or vacated. The Board shall not extend the period within which a party may seek to set aside or vacate the entry of default.

(c) The date of filing of a request to vacate or set aside an entry of default shall be deemed filed under the same rules provided in 2451-7 of these rules.

(d) If the Tax Assessor fails to appear at a duly noticed evidentiary hearing, the hearing may be conducted in the absence of the Tax Assessor.

2453- 8 FINDINGS AND DETERMINATIONS OF THE BOARD OF TAX REVIEW

(a) The Board may confirm, increase or decrease the assessment that is the subject of the appeal.

(b) The decision of the Board shall be made by a majority of the Board members where a quorum is present. In the case of a tie, the Tax Assessor's assessment shall be upheld.

SECTION 2453 -9 NOTICE OF DECISION OF THE BOARD

The final decision of the Board shall be served on the Appellant and the Tax Assessor by delivering a copy to the Appellant or Tax Assessor, or by certified mail, return receipt requested, and shall include the notice of any party's right to appeal to the Superior Court within thirty (30) days of receipt of the final determination of the Board.

2453-10 SETTLEMENT OF APPEALS

During the pendency of an appeal, the parties to any appeal are permitted to engage in settlement discussions and negotiations outside of the presence of the Board of Tax Review and its hearing officers. If the parties settle an appeal before the Board issues its final determination, the parties shall notify the Board that the appeal has been settled and the Appellant shall withdraw the appeal.

2453-11 WITHDRAWAL OF APPEAL

An Appellant may withdraw or request a voluntary dismissal of an appeal filed with the Board of Tax Review at any time before the Board of Tax Review issues a final decision. An Appellant desiring to withdraw an appeal shall file a written notice of withdrawal of the appeal with the Board of Tax Review and serve a copy on the Tax Assessor. The Appellant or the Appellant's representative, shall sign the notice of withdrawal of an appeal. The Appellant may also appear in person at the hearing and notify the Board of the withdrawal of the appeal on the record.

2454-1 THE RECORD


- (a) All hearings are to be recorded and subsequently transcripts are to be created.
- (b) The original papers and exhibits filed at the hearing and the transcript of the hearing, and any additional documents submitted by the Appellant and Tax Assessor after the hearing in accordance with an order of the Board shall constitute the record.
- (c) Upon request of any party, the Board shall provide a full record of the proceeding. A party requesting a transcript of any hearing, and/or exhibits filed at

the hearing shall pay the cost of providing a portion or the full record of the proceeding.

The above Rules and Regulations of the Board of Tax Review are hereby approved:

Approved:

10.20.2017
Date

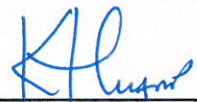


Valdamier O. Collens
Chairman
Board of Tax Review

Pursuant to the powers vested in me by Section 11 of the Revised Organic Act of 1954, the above Rules and Regulations of the Virgin Islands Board of Tax Review are hereby:

Approved:

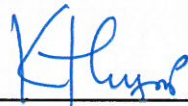
7-23-18
Date



Kenneth E. Mapp
Governor

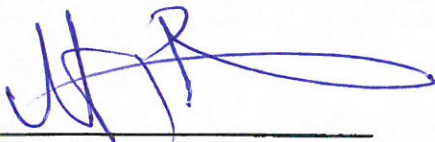
GOVERNOR'S CERTIFICATE

Pursuant to the authority granted under Section 938 of Title 3, Virgin Islands Code, I, Kenneth E. Mapp, Governor of the U.S. Virgin Islands, certify that because of compelling circumstances, including lengthy delay before publication, the public interest requires that the attached rules and regulations that pertain to the appeals of taxpayers Real Property Tax assessments in the U.S. Virgin Islands, become effective prior to publication in the Virgin Islands Rules and Regulations. The public interest requires prompt promulgation of the attached rules and regulations to implement the appeal procedure pertaining to Title 3, Chapter 11, Section 180, and Title 33, Chapter 87, Sections 2451-2455. These Rules and Regulations shall become effective upon this 23 day of July, 2018



Kenneth E. Mapp
Governor

Attest:



Osbert E. Potter
Lieutenant Governor

Date:

7/26/18