

**PROPOSED REGULATION OF
THE STATE BOARD OF EQUALIZATION**

LCB File No. R018-97

August 19, 1997

EXPLANATION--Matter in italics is new; matter in brackets [] is material to be omitted.

AUTHORITY: §§ 2-18, NRS 361.375.

Section 1. Chapter 361 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

Sec. 2. *1. Any person may testify before the board on behalf of a party.*

2. If a person testifying before the board represents to the board that he is an appraiser of real estate but has not obtained a certificate, license or permit required by chapter 645C of NRS, the board will, unless the circumstances of the case otherwise require, give his testimony the same weight given to the testimony of a person who is not an appraiser.

3. If a person specified in subsection 2 receives or expects to receive any form of compensation for an analysis, opinion or conclusion concerning the nature, quality, value or use of property the value of which is before the board, the board will inform the person that:

(a) It is unlawful to act or assume to act as an appraiser of real estate in this state without first obtaining the appropriate certificate, license or permit pursuant to chapter 645C of NRS; and

(b) The board will notify the real estate division of the department of business and industry of his conduct.

4. Upon informing a person pursuant to subsection 3, the board will, as soon as practicable, notify the real estate division of the department of business and industry of the conduct specified in that subsection.

Sec. 3. *If a party wishes to obtain a transcript of any hearing conducted before the board, the party must:*

1. *Provide a reporter, if a reporter is not provided by the board for the hearing;*
2. *Pay for the transcript or obtain a copy from the reporter provided by the board at the party's expense; and*
3. *Provide a copy of the transcript to the secretary, if requested.*

Sec. 4. 1. *A party may appeal a decision of a county board of equalization by submitting a written petition to the board not later than March 10.*

2. *Except as otherwise provided in subsection 3, the appeal must be based upon the same facts and evidence submitted to the county board of equalization.*

3. *If new evidence is discovered which could not, by due diligence, have been discovered before the final adjournment of the county board of equalization, the board will consider the new evidence. The evidence must be submitted in writing to the board and all parties of record not less than 7 days before the hearing on the matter.*

Sec. 5. *In a hearing concerning an appeal from a decision of a county board of equalization:*

1. *The petitioner has the burden of proof.*
2. *The order and length of presentations will ordinarily be:*
 - (a) *A brief orientation by the county assessor or his staff;*
 - (b) *A presentation of not more than 15 minutes by the petitioner;*

(c) A presentation of not more than 15 minutes by the respondent; and

(d) A rebuttal of not more than 5 minutes by the petitioner.

Sec. 6. NAC 361.682 is hereby amended to read as follows:

361.682 1. *The provisions of* NAC 361.682 to 361.736, inclusive [:], *and sections 2 to 5, inclusive, of this regulation:*

(a) Govern the practice and procedure in contested cases before the board.

(b) Will be liberally construed to secure the just, speedy and economical determination of all issues presented to the board.

2. In special cases, where good cause appears, not contrary to statute, deviation from these rules, if stipulated to by all parties of record, will be permitted.

Sec. 7. NAC 361.684 is hereby amended to read as follows:

361.684 As used in NAC 361.686 to 361.736, inclusive, *and sections 2 to 5, inclusive, of this regulation*, unless the context otherwise requires:

1. "Board" means the state board of equalization.

2. "Secretary" means the executive secretary of the board who is the executive director of the department.

3. "Staff" means the staff of the department.

Sec. 8. NAC 361.690 is hereby amended to read as follows:

361.690 1. "Intervener" means a person , *government, governmental agency or political subdivision of a government*, other than [the original parties] *an original party* to [the] a proceeding , who is directly and substantially affected by the proceeding and whose [request] *petition for leave to intervene* is received in writing by the secretary *and each party of record* not

later than 3 working days before the hearing . [, to appear and present testimony or otherwise participate at the hearing.]

2. "Petitioner" means [any person who requests or seeks to equalize property tax valuations pursuant to NRS 361.375 to 361.435, inclusive.] *a party who initiates or commences an administrative proceeding before the board pursuant to the provisions of chapter 361 of NRS.*

3. "Respondent" means [any person required to respond] *a party who responds* to an administrative proceeding initiated or commenced by [the board or the department.] *a petitioner.*

Sec. 9. NAC 361.692 is hereby amended to read as follows:

361.692 1. A person, *government, governmental agency or political subdivision of a government*, other than [the original parties] *an original party* to any proceeding , who is directly and substantially affected by the proceeding must secure an order from the secretary or the board granting leave to intervene before being allowed to participate. For *the* purposes of [court review or] *review by a court or an* appeal, leave to intervene in any matter or proceeding is not a finding or determination of the secretary or the board that the party will or may be a party aggrieved by any ruling, order or decision . [of an assessor or the commission.

2. Petitions]

2. *A petition* for leave to intervene must be in writing and [must] clearly identify the proceeding in which intervention is sought. The petition must set forth the name and address of the [petitioner] *intervener* and contain a clear and concise statement of the direct and substantial interest of the [petitioner] *intervener* in the proceeding, stating the manner in which the [petitioner] *intervener* will be affected by the proceeding and outlining the matters relied upon by [the petitioner] *him* as a basis for [his request] *the petition for leave* to intervene. If affirmative relief is sought, the petition must contain a clear and concise statement of the relief

sought and the basis [thereof,] *for that relief*, together with a statement as to the nature and quantity of evidence the [petitioner] *intervener* will present if his petition is granted.

3. [Petitions] *A petition for leave* to intervene and [proof of service of copies thereof on all other parties of record must be filed] *any evidence the intervener wishes to present must be submitted to the secretary and each party of record* not less than [2] *7 working* days before the commencement of the hearing or state a substantial reason for the delay.

4. If a petition *for leave* to intervene shows a direct and substantial interest in the subject matter of the proceeding or any part [thereof] *of the proceeding* and does not unduly broaden the issues, the secretary or the board may grant leave to intervene or otherwise appear *and participate* in the proceeding with respect to the matters set [out] *forth* in the [intervening] petition, subject to [such] *any* reasonable conditions [as] *that* may be prescribed.

5. If it appears during the course of a proceeding that an intervener has no direct or substantial interest in the proceeding, and that the public interest does not require his participation [therein,] *in the proceeding*, the board may dismiss him from the proceeding.

Sec. 10. NAC 361.696 is hereby amended to read as follows:

361.696 During any hearing, *other than a hearing concerning an appeal from a decision of a county board of equalization*, the petitioner, respondent and staff [have the right to:] *may*:

1. Call and examine witnesses [.] *concerning any matter relevant to the issues of the case.*
2. Introduce exhibits relevant to the issues of the case.
3. Cross-examine opposing witnesses on any matter relevant to the issues of the case, [even though] *regardless of whether* that matter was [not] covered in the direct examination.
4. Impeach any witness regardless of which party first called him to testify.
5. Offer rebuttal evidence.

6. Call any person who, because of his relationship to any other party, may be an adverse witness and examine him as an adverse witness.

Sec. 11. NAC 361.702 is hereby amended to read as follows:

361.702 1. The board will give reasonable notice of any hearing held before it to the petitioner [or] *and* respondent at [his address as it appears] *the address of each of those persons as those addresses appear* in the records of the department.

2. The board will notify the appropriate county assessor of a hearing [arising out of the valuation of] *relating to any* property in his county or which may have a direct effect upon his county. The county assessor or his representative shall [attend] :

(a) *Attend* any hearing [arising out of the valuation of property in his county] *specified in this subsection*, unless otherwise directed by the board ; and [shall make the prescribed presentation.]

(b) *Make any presentation prescribed by the board.*

Sec. 12. NAC 361.704 is hereby amended to read as follows:

361.704 1. Any person [, corporation, partnership, association or governmental entity] , *government, governmental agency or a political subdivision of a government* desiring to appeal any valuation of property [which is] determined by the [Nevada tax] commission pursuant to NRS 361.320, 361.321 , *361.323* or 361.325 may appear before the board during its annual meeting in March if a written petition [to appear] *for a hearing* is delivered to the secretary [no] *not* later than [December 1 of the preceding year.] *January 15 of the year following the year in which the valuation is made.*

2. The petition must [specify the] :

(a) *Specify the issues and contentions upon which the petition is based;*

(b) *Specify the portions of the commission's formulas for valuation [which are to be questioned and the specific basis] that are in question;*

(c) *Specify the bases for the questions [.] ; and*

(d) *Include any evidence upon which the petition is based that the petitioner possesses at the time the petition is submitted to the secretary.*

3. *Any additional evidence in support of the petition must be submitted to the board not later than 10 days before the date of the hearing.*

Sec. 13. NAC 361.706 is hereby amended to read as follows:

361.706 The board may, [in its discretion, either] before or during a hearing, upon good cause shown, grant continuances . [for submission of further or additional proof of any subject matter.]

Sec. 14. NAC 361.708 is hereby amended to read as follows:

361.708 At the time and place set for the hearing, if a party fails to appear, the board may [, in its discretion, dismiss] :

1. *Proceed with the hearing;*

2. *Dismiss* the proceeding with or without prejudice ; or [may recess]

3. *Recess* the hearing for a period [of time] to be set by the board to enable the party to attend.

Sec. 15. NAC 361.710 is hereby amended to read as follows:

361.710 [1. *Any petitioner appealing from the valuation of property*] *In any hearing other than a hearing concerning an appeal from a decision of a county board of equalization:*

1. *The petitioner* has the burden of proof . [in any hearing for that purpose.]

2. Evidence will ordinarily be received from the parties in the following order:

- (a) [Brief] *A brief* orientation by the county assessor or his staff;
- (b) The petitioner;
- (c) The [staff, including the county assessor or his staff;] *respondent*;
- (d) Interveners; [and]
- (e) Rebuttal by the petitioner [.

3. If a proceeding is initiated or commenced by the department or board, the order of the presentation of evidence will be as follows:

- (a) The staff, including the county assessor or his staff;
- (b) The respondent;
- (c) Interveners;
- (d) Rebuttal by the staff; and
- (e)] ; *and*
- (f) Rebuttal by the respondent.

[4.] 3. The secretary or a person he has designated shall mark, record and file all exhibits submitted at the hearing.

Sec. 16. NAC 361.714 is hereby amended to read as follows:

361.714 1. Oral evidence will be taken only upon oath or affirmation administered by [the secretary or a]

- (a) *The secretary*;
- (b) *A member of the board [. Before taking the witness stand,] ; or*
- (c) *A person designated by the board.*

2. *Before testifying*, each person must swear [() or affirm ()] that the testimony he is about to give will be the truth, the whole truth and nothing but the truth.

Sec. 17. NAC 361.716 is hereby amended to read as follows:

361.716 1. The hearing, *other than a hearing concerning an appeal from a decision of a county board of equalization*, will not be conducted according to the technical rules of evidence and procedure as practiced in civil actions. *[Any] Except as otherwise provided in NAC 361.718 or by a specific statute, any* relevant evidence may be admitted, *[except where precluded by statute or NAC 361.718,]* if it is of a type commonly relied upon by reasonable and prudent men in the conduct of their affairs, *[even though] regardless of whether* the evidence *[might be] is* subject to objection in civil actions.

2. Hearsay evidence, as that term is used in civil actions, may be admitted *[for the purpose of supplementing or explaining] to supplement or explain* other evidence, but it is not sufficient by itself to support findings of fact unless it *[would be] is* admissible over objection in civil actions.

3. The rules of privilege will be applied as they are applied in civil actions.

4. Irrelevant, cumulative and unduly repetitious evidence is not admissible, nor is incompetent evidence, as that term is used in civil trials, with the exception of hearsay evidence as *[above provided.] provided in subsection 2.*

5. The parties or their counsel may, by written stipulation, agree that certain specified evidence may be admitted, *[even though] regardless of whether* the evidence *[would otherwise be] is otherwise* subject to objection.

6. The board, or any party to any proceeding, may cause the depositions of witnesses to be taken in the manner prescribed by law and the rules of the court for depositions in civil actions.

Sec. 18. NAC 361.718 is hereby amended to read as follows:

361.718 [All appeals from decisions] *An appeal from a decision* of the commission *that is* before the board will be limited to the issues and contentions set forth in the petition for a hearing before the board. [Facts] *Issues, contentions* and evidence beyond the scope of the petition may be [received] *considered* by the board if [new evidence is] :

1. *New issues, contentions and evidence are* discovered which could not by due diligence have been discovered and presented in the petition [; including, without limitation, the right of the petitioner to respond to any issues or factual allegations not previously made that are brought to his attention after the filing of a petition by an intervener, or otherwise.] ; *and*

2. *The issues, contentions and evidence are submitted in writing to the board and each party not less than 10 days before the hearing of the appeal.*

Each party is entitled to respond to any such issue, contention or evidence.