

Property Tax

Reexamining county board of equalization's middle step

While many articles explore Colorado's property tax appeal process – often focusing on its initiation or conclusion – few delve into the critical middle stage: the county board of equalization appeal. This article focuses on that middle step, which occurs after the county issues a Notice of Determination in response to a taxpayer's initial written objection. Colorado's property tax appeal process typically unfolds in three stages: the initial protest to the county assessor, the county BOE appeal, and finally, the third-level appeal options – binding arbitration, district court, or the Colorado board of assessment appeals. While the first and third stages receive considerable attention, the BOE level often operates in relative obscurity. Yet, it plays a pivotal role in shaping outcomes for taxpayers, especially those with complex commercial holdings. Understanding this middle step is essential for stakeholders aiming to navigate the system effectively. The BOE process varies by county, depending on whether the county follows a normal or extended schedule. For counties on the normal schedule, BOE hearings occur between July 15 and Aug. 5. For extended-schedule counties, hearings are held from Sept. 15 through Oct. 31. According to Colorado Revised Statutes § 39-8-102, the county BOE is responsible for reviewing



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the valuations of all taxable property listed on the county's assessment roll. The board may:

- Direct the county assessor to correct any omissions or errors.
- Raise, lower or adjust valuations to ensure assessments are "just and equalized."

The statute's language is significant. It allows for increases in property valuations if deemed too low and emphasizes the principle of fairness through equalization. But what does "just and equalized" truly mean? For county assessors, it often refers to the use of mass appraisal systems that categorize properties into models based on shared characteristics. These models aim to apply consistent valuation methodologies across similar properties. However, for property owners and tax agents, "just and equalized" implies a fairness standard – that no property should be placed at a competitive disadvantage relative to comparable properties. This distinction in interpretation can lead to friction in the appeal process. CRS § 39-8-102 also permits the BOE to appoint independent referees experienced in property valuation to conduct hearings. To

qualify as independent, a referee must not:

- Represent any taxpayer in the same county during the same property tax year.
- Represent any taxpayer in subsequent matters related to a hearing they presided over.

However, the statute does not restrict referees from serving in the same county year after year. Since counties hire, train, and may reappoint these referees annually, questions arise about the true independence of these hearing officers within a system intended to be "just and equalized."

BOE hearings are typically brief, with each side allotted five to 10 minutes to present their case, followed by a short question and answer session. While this format may be adequate for residential properties, it often falls short for complex commercial assets such as office buildings, industrial facilities, retail centers or multifamily developments. These properties involve nuanced valuation issues that require more time and detailed analysis than the current format allows. For instance, a downtown office tower with multiple tenants and varying lease structures may require detailed analysis of rental income, lease terms, tenant improvement allowances, vacancy rates, and market comparables. Condensing this into a 10-minute presentation often forces tax agents

to focus only on the most critical elements, potentially overlooking nuances such as submarket trends or deferred maintenance that could significantly impact valuation. Similarly, assessors may not have sufficient time to respond thoroughly, leading to decisions based on incomplete or oversimplified information. Stakeholders hold differing views on the BOE process. County assessors often see it as a necessary step to maintain consistency and uphold statutory obligations. Taxpayers and their representatives, however, may view it as a procedural hurdle that adds cost and complexity without significantly improving outcomes. Referees, tasked with impartiality, face the challenge of making informed decisions within tight time frames and with limited context. These tensions underscore the need to evaluate whether the BOE process is achieving its intended goals or simply perpetuating inefficiencies. Following the hearing, the referee makes a recommendation, which the county BOE certifies. The taxpayer or their representative is then notified of the outcome. If dissatisfied, the taxpayer may pursue a third-level appeal through one of three avenues: binding arbitration, district court or Colorado Board of Assessment Appeals.

Given the administrative burden and limited efficacy of the BOE appeal level – especially for commercial properties – it may be time to reconsider its role. Are we allocating too many resources to a process that may not effectively resolve valuation disputes? In an era of constrained budgets and increasing demand for efficiency, streamlining the appeal process could allow assessors and taxpayers to focus more directly on resolving substantive valuation issues. As Colorado continues to evolve its property tax framework, policymakers might consider pilot programs that streamline or reimagine the BOE process. For example, expanding pre-hearing mediation or allowing more flexible time allocations for complex cases could improve fairness and efficiency. Ultimately, the goal should be to ensure that every taxpayer – whether a homeowner or a commercial investor – has access to a process that is not only legally sound but also substantively equitable. Removing or reforming the BOE level could foster a more collaborative and effective property tax system – one that prioritizes fairness, transparency and meaningful resolution over procedural formality. ▲

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