

By: Otto

H.B. No. 4230

A BILL TO BE ENTITLED

AN ACT

relating to good cause for rescheduling a hearing by an appraisal review board.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1.04, Tax Code is amended to read as follows:

Sec. 1.04. DEFINITIONS. In this title:

(1) "Property" means any matter or thing capable of private ownership.

(2) "Real property" means:

(A) land;

(B) an improvement;

(C) a mine or quarry;

(D) a mineral in place;

(E) standing timber; or

(F) an estate or interest, other than a mortgage or deed of trust creating a lien on property or an interest securing payment or performance of an obligation, in a property enumerated in Paragraphs (A) through (E) of this subdivision.

(3) "Improvement" means:

(A) a building, structure, fixture, or fence erected on or affixed to land;

(B) a transportable structure that is designed to be occupied for residential or business purposes, whether or not it

1 is affixed to land, if the owner of the structure owns the land on
2 which it is located, unless the structure is unoccupied and held for
3 sale or normally is located at a particular place only temporarily;
4 or

5 (C) for purposes of an entity created under
6 Section 52, Article III, or Section 59, Article XVI, Texas
7 Constitution, the:

8 (i) subdivision of land by plat;

9 (ii) installation of water, sewer, or
10 drainage lines; or

11 (iii) paving of undeveloped land.

12 (3-a) Notwithstanding anything contained herein to
13 the contrary, a manufactured home is an improvement to real
14 property only if the owner of the home has elected to treat the
15 manufactured home as real property pursuant to Section 1201.2055,
16 Occupations Code, and a certified copy of the statement of
17 ownership and location has been filed with the real property
18 records of the county in which the home is located as provided in
19 Section 1201.2055(d), Occupations Code.

20 (4) "Personal property" means property that is not
21 real property.

22 (5) "Tangible personal property" means personal
23 property that can be seen, weighed, measured, felt, or otherwise
24 perceived by the senses, but does not include a document or other
25 perceptible object that constitutes evidence of a valuable
26 interest, claim, or right and has negligible or no intrinsic value.

27 (6) "Intangible personal property" means a claim,

1 interest (other than an interest in tangible property), right, or
2 other thing that has value but cannot be seen, felt, weighed,
3 measured, or otherwise perceived by the senses, although its
4 existence may be evidenced by a document. It includes a stock,
5 bond, note or account receivable, franchise, license or permit,
6 demand or time deposit, certificate of deposit, share account,
7 share certificate account, share deposit account, insurance
8 policy, annuity, pension, cause of action, contract, and goodwill.

9 (7) "Market value" means the price at which a property
10 would transfer for cash or its equivalent under prevailing market
11 conditions if:

12 (A) exposed for sale in the open market with a
13 reasonable time for the seller to find a purchaser;

14 (B) both the seller and the purchaser know of all
15 the uses and purposes to which the property is adapted and for which
16 it is capable of being used and of the enforceable restrictions on
17 its use; and

18 (C) both the seller and purchaser seek to
19 maximize their gains and neither is in a position to take advantage
20 of the exigencies of the other.

21 (8) "Appraised value" means the value determined as
22 provided by Chapter 23 of this code.

23 (9) "Assessed value" means, for the purposes of
24 assessment of property for taxation, the amount determined by
25 multiplying the appraised value by the applicable assessment ratio,
26 but, for the purposes of determining the debt limitation imposed by
27 Article III, Section 52, of the Texas Constitution, shall mean the

1 market value of the property recorded by the chief appraiser.

2 (10) "Taxable value" means the amount determined by
3 deducting from assessed value the amount of any applicable partial
4 exemption.

5 (11) "Partial exemption" means an exemption of part of
6 the value of taxable property.

7 (12) "Taxing unit" means a county, an incorporated
8 city or town (including a home-rule city), a school district, a
9 special district or authority (including a junior college district,
10 a hospital district, a district created by or pursuant to the Water
11 Code, a mosquito control district, a fire prevention district, or a
12 noxious weed control district), or any other political unit of this
13 state, whether created by or pursuant to the constitution or a
14 local, special, or general law, that is authorized to impose and is
15 imposing ad valorem taxes on property even if the governing body of
16 another political unit determines the tax rate for the unit or
17 otherwise governs its affairs.

18 (13) "Tax year" means the calendar year.

19 (14) "Assessor" means the officer or employee
20 responsible for assessing property taxes as provided by Chapter 26
21 of this code for a taxing unit by whatever title he is designated.

22 (15) "Collector" means the officer or employee
23 responsible for collecting property taxes for a taxing unit by
24 whatever title he is designated.

25 (16) "Possessory interest" means an interest that
26 exists as a result of possession or exclusive use or a right to
27 possession or exclusive use of a property and that is unaccompanied

1 by ownership of a fee simple or life estate in the property.
2 However, "possessory interest" does not include an interest,
3 whether of limited or indeterminate duration, that involves a right
4 to exhaust a portion of a real property.

5 (17) "Conservation and reclamation district" means a
6 district created under Article III, Section 52, or Article XVI,
7 Section 59, of the Texas Constitution, or under a statute enacted
8 under Article III, Section 52, or Article XVI, Section 59, of the
9 Texas Constitution.

10 (18) "Clerical error" means an error:

11 (A) that is or results from a mistake or failure
12 in writing, copying, transcribing, entering or retrieving computer
13 data, computing, or calculating; or

14 (B) that prevents an appraisal roll or a tax roll
15 from accurately reflecting a finding or determination made by the
16 chief appraiser, the appraisal review board, or the assessor;
17 however, "clerical error" does not include an error that is or
18 results from a mistake in judgment or reasoning in the making of the
19 finding or determination.

20 (19) "Comptroller" means the Comptroller of Public
21 Accounts of the State of Texas.

22 (20) "Good cause" means a reason that includes, but is
23 not limited to, an error or mistake that:

24 (a) was neither intentional nor the result of
25 conscious indifference, and

26 (b) will not cause undue delay or other injury to
27 the person or entity authorized to extend the deadline or grant a

1 rescheduling.

2 SECTION 2. Subsection (e), Section 41.45, Tax Code is
3 amended to read as follows:

4 (e) On request made to the appraisal review board before the
5 date of the hearing, a property owner who has not designated an
6 agent under Section 1.111 to represent the owner at the hearing is
7 entitled to one postponement of the hearing to a later date without
8 showing cause. In addition and without limitation as to the number
9 of postponements or reschedulings, the board shall reschedule
10 [~~postpone~~] the hearing to a later date if the property owner or the
11 owner's agent at any time shows good [~~reasonable~~] cause for the
12 rescheduling [~~postponement~~] or if the chief appraiser consents to
13 the rescheduling [~~postponement~~]. A request for rescheduling must
14 be made before the ninetieth day after the date of the hearing. The
15 hearing may not be postponed to a date less than five or more than 60
16 [~~30~~] days after the date scheduled for the hearing at the time
17 [~~when~~] the postponement or rescheduling is sought unless the date
18 and time of the hearing as postponed are agreed to by the appraisal
19 review board, the property owner, and the chief appraiser. A
20 request by a property owner or the owner's agent for a postponement
21 or rescheduling under this subsection may be made in writing,
22 including by facsimile transmission or electronic mail, by
23 telephone, or in person to the appraisal review board, a panel of
24 the board, or the chairman of the board. The chairman or the
25 chairman's representative may grant, but may not deny, a
26 postponement or rescheduling under this subsection without the
27 necessity of action by the full board. The granting by the

1 appraisal review board, the chairman, or the chairman's
2 representative of a postponement under this subsection does not
3 require the delivery of additional written notice to the property
4 owner.

5 SECTION 3. This Act takes effect September 1, 2009.