

FAYETTE COUNTY BUILDING

FAYETTE COUNTY, PENNSYLVANIA

BOARD OF COUNTY COMMISSIONERS

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- Vincent A. Vicites..... Vice Chairman
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APPEAL PROCEDURES

RULES AND REGULATIONS

**FAYETTE COUNTY
PENNSYLVANIA**

BOARD OF ASSESSMENT APPEALS

BOARD OF ASSESSMENT MEMBERS

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- John Rogish..... Member

- John S. Cupp, Jr..... Solicitor

James A. Hercik, CPE
 Chief Assessor/
 Director of Assessments
 Certified General Appraiser
 GA-000904-L
 AV-000249-L

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**APPEAL PROCEDURES, RULES AND REGULATIONS
FAYETTE COUNTY BOARD OF ASSESSMENT APPEALS**

I. GENERAL RULES

A. FILING PROCEDURES

1. **PLACE FOR FILING:** All appeals (Including Exemption Requests) from the assessment of real estate must be properly filed with the Board of Assessment Appeals through the Assessment Office located on the Fourth Floor of the Fayette County Courthouse, 61 East Main Street, Uniontown, PA 15401-3514.
2. **METHOD OF FILING:** Appeals may be filed by mail or in person on original forms provided for that purpose by the Board of Assessment Appeals, Monday through Friday, Between the hours of 8:00 AM and 4:30 PM, prevailing time. Official copies of said forms are attached as addendum 1, 2 and 3. **All appeal forms must be originals, photocopies and/or facsimiles not accepted.**
3. **FILING SCHEDULE:** Any yearly appeal must be filed on or before September 1st of the year proceeding the effective tax year of the assessed valuation. Whenever notification of change of assessed valuation is made to an owner of property, an appeal from assessment may be made in the

above manner within forty (40) days of the date of notification indicated on the change notice. Appeals from assessment resulting from catastrophic loss, as defined in Section 5453.702 (d.1) of Purdon's Pennsylvania Statutes Annotated, Title 72, Taxation and Fiscal Affairs, hereinafter called Purdon's, shall be filed no later than the end of the County fiscal year in which the loss occurred, or within six (6) months of the loss, whichever period is longer. Appeals from assessment resulting from a countywide valuation change, must be made within thirty (30) days of notification indicated on the change notice. Any appeal received after the final filing date, unless postmarked prior to the deadline, will be rejected as untimely filed.

4. **SIGNING THE APPEAL FORM:** Each notice of property assessment appeal shall be executed by the aggrieved party of record. In the case in which a corporation shall be the aggrieved party, the proper assessment appeal shall be executed by an officer, or a duly authorized employee of the aggrieved corporation, which shall be accompanied by a verified (see 18 PaCS Section 4904) certification that he is authorized to act on behalf of the corporation. In all cases in which a partnership or sole proprietorship is the aggrieved party, a principal of such organization shall execute the notice of appeal. Proper documentation indicating appellant's status as an aggrieved person may be required.
5. **LESSEE APPELLANT:** In the event that an appeal involves leased property in which the lessee is responsible for the payment of all real estate taxes on the property, the owner or lessee, at the time of filing

the appeal, shall produce a verified copy of the lease, as well as written authorization executed by the fee holder and evidencing notice to the title holder of the taking of the appeal.

B. **PRE-HEARING PROCEDURES:**

1. **NOTICE OF APPEAL HEARINGS:** Notice of the date, time and place of an assessment appeal hearing will be sent to the owner(s) and appropriate taxing authorities at least twenty (20) days prior to the scheduled hearing, in accordance with Purdon's Section 5453.701 ©4. A third party notice will be sent to the appellant's attorney of record or to an authorized representative only upon written request by the appellant.
2. **PRESENCE AT HEARING:** In all cases, the aggrieved party/owner/partner/or authorized corporate officer/ as the case may be, shall be present at the hearing(s). Failure to appear at hearing, after due notice thereof, shall be considered an abandonment of the appeal and shall be grounds for dismissal in accordance with Purdon's Section 5453.701 ©4.
3. **POSTPONEMENT OF HEARING:** All requests for a postponement of a hearing shall be in writing and shall be filed with the Board at least five (5) days before the date set for the hearing, and shall set forth the grounds relied upon in support thereof. If a postponement is granted for just cause, only one (1) such postponement is permitted. The Board, however, shall have the right to continue the said hearing from day to day, or to adjourn it to a later

date, or to a different place, by announcement at the hearing or by other appropriate notice. Failure of appellant to appear at the hearing, after due notice thereof, shall be considered an abandonment of the appeal and shall be grounds for dismissal.

4. **EXPERT WITNESS QUALIFICATIONS:** In all cases involving an expert witness, the written qualifications of each expert witness, including proof of compliance with the Pennsylvania Real Estate Licensing Act and the rules and regulations of the Pennsylvania Real Estate Commission, shall be submitted to the Board at least twenty (20) days prior to the scheduled hearing date. An expert witness shall be permitted to testify and express opinions only in those fields of his qualified expertise or in his report. Failure to comply with this rule may constitute grounds to disqualify the witness.
5. **EXPERT WITNESS APPRAISAL – FINANCIAL INTEREST:** in all assessment appeals in which a question of valuation is an issue, and in which the appellant intends to present expert appraisal testimony, the appellant shall produce to the Board at least twenty (20) days prior to the scheduled hearing date, a signed appraisal by the expert to be relied upon by the appellant, containing a statement indicating whether or not such expert witness or any person or corporation directly or indirectly associated with him has any financial interest in the property subject to the appeal and whether or not the terms of compensation for his testimony are based upon any contingent methods of calculation relating to the outcome of the appeal, and if so, to state in specificity the terms of said arrangement.

6. **PROPERTY SUBJECT TO LEASE:** In the event that any appeal shall involve a property or any portion of a property which is subject to an implied or actual lease(s), the appellant shall submit to the Board, at least twenty (20) days prior to the scheduled hearing date, the income and expense statements for the appealed property, complete with all notices and schedules for the past three (3) years. The appellant shall also submit to the Board at least ten (10) days prior to the scheduled hearing date a verified copy of the lease(s) containing all of its/their terms and conditions. In the case of apartment houses, office buildings and shopping centers/malls, the appellant shall submit at least twenty (20) days prior to the scheduled hearing date, a verified copy of a typical lease, together with the latest rent schedule, a copy of the rent roll, showing the tenants names, unit identification, square footage leases, or bedroom and bath count, monthly or annual rent and any additional payments of income made.
7. **FAILURE TO COMPLY:** Failure to timely provide the required information at least twenty (20) days prior to the scheduled hearing date will result in a cancellation of the hearing due to noncompliance with the rules of the Board and the denial of the appeal. Failure to produce the documents required by these rules or to strictly comply with the requirements for the execution of the notice of appeal may constitute sufficient grounds for the denial of the hearing.

C. HEARING PROCEDURES

1. **GENERAL:** The Board has adopted "Roberts Rules of Order" to govern all appeal hearings and Board meetings. Those not adhering to "Roberts Rules of Order", after one ruling from the Chairman, may be asked to leave the hearing. All hearings will be audio recorded. Anyone requesting a transcript of any hearing must submit his/her request in writing to the Board. The Board shall provide the tape to a duly appointed stenographer to give an estimate as to the cost of transcription. The Board shall then notify the person requesting such of the cost and equal payment must be made to the County for this transcription. Any variation from the final cost to the estimate must be paid prior to the release of said transcript to the person requesting such. Any overpayment shall be promptly refunded by the county. Audio tapes shall be kept in the Office of the Chief Assessor for a time period to allow for any further action by the appellant, or taxing body from the Board's decision, normally thirty (30) days. In the event that such continuing action is taken, the tape shall remain intact during the full time of the pending action. Copies of tapes will not be given out. Only written transcripts by a qualified stenographer appointed by the Board shall have access to the tapes.
2. **EVIDENCE:** The chairman may swear in any and all persons who shall testify before the Board. The Board will not be bound by the strict rules of evidence normally applied in the Courts. The Board, in its discretion, may hear any and all evidence, which it

considers probative and helpful in deciding the appeal. A record owner of property, under consideration, may offer his/her opinion of it's value either orally or in writing. The Board will not receive valuation testimony from anyone other than an owner unless a complete and written appraisal report upon which such testimony shall be based has been filed with the Board in accordance with these rules.

3. **TESTIMONY:** At all hearings the Board will sit to hear such evidence as may be produced by the appellant and other legally interested parties. During the appeal hearing, the property owner or his agent shall state the basis of the appellant's appeal and shall make a full and complete disclosure of appellant's information bearing on the property's market value.
 - a. In cases in which an individual appellant cannot attend the appeal hearing, his authorized representative shall produce written evidence of representation and authorization executed by the appellant and verifying the representative's authority to attend on behalf of the appellant.
 - b. The appellant has the burden of presenting evidence before the Board in order to substantiate his position and rebut the assessment he is contesting. He may present any testimony, documents or physical evidence, which is in the opinion of the Board, is relevant and admissible in the case.

- c. The Board may examine the appellant or witness appearing on appellant's behalf and may require the appellant to furnish additional information or data for consideration in arriving at an opinion of market value.
- d. Appraisal, consulting or valuation reports, valuation summaries, or other documents not meeting the requirements as defined in these rules or not timely received shall not be accepted as evidence of values in such appeals.
- e. An appraisal report may be stricken as inadmissible hearsay unless the preparing party personally appears before the Board for the purpose of cross-examination by all parties.
- f. All parties will be required to exercise proper and appropriate decorum during the hearing.

D. TAXING DISTRICTS

- 1. **APPLICABILITY:** These rules shall be applicable to appeals by taxing districts.
- 2. **DEFINITION:** A Taxing District is defined as any governmental entity, specifically the County, Municipalities and School Districts, authorized under the statute of Pennsylvania to levy a tax on real property under its jurisdiction based on a fixed percentage of market value.

E. APPEALS TO COURT

- 1. Any person who may be Aggrieved by the order of our Board may appeal to the Court of Common Pleas within thirty (30) days of the Board's decision in accordance with 42 PA CSA 5571 Sub-Section B.

II. EXEMPTION APPLICATION RULES:

- 1. All entities seeking a grant of exempt status from taxation in accordance with the Fourth to Eighth Class County Assessment Law (72 P.S. 5453-202 as amended) shall submit to the Board, prior to the appeal hearing, the following documentation as may be applicable:
 - a. Proof on non-profit status granted by the Commonwealth of Pennsylvania;
 - b. Appropriate revenue service ruling letter granting the exempt status;
 - c. Copies of appropriate income tax returns filed with the Internal Revenue Service, if any, for the immediate three (3) years preceding the date of the assessment appeal; If no IRS forms are available then Income & Expense Statements for the past three (3) years shall be filed.
 - d. Copies of all organizational documents, by-laws and most recent amendments;
 - e. A list of the current Board of Directors, or other governing body together with a verified statement that none of the income of the alleged non-profit entity inure to the benefit of any individual shareholder, to the benefit of any individual shareholder, incorporator, member of the Board of Directors or other governing body (other than salaried employees), unless the documentations

set forth hereinabove contains such a statement in the Articles of Organization or amendments thereto; in the latter event, a brief reference to the sections should be noted with the submission of such documents.

- f. In the event the tax returns submitted (or if there are no such tax returns) fail to disclose the amounts of salaries and wages paid, then the applicant shall submit a verified statement of the current salaries and wages paid to all officers, directors and the five (5) highest salaried employees of the non-profit corporation, or other governing body.
- g. A copy of the deed or document of title; whereby the applicant obtained the property in question; in the event no such copy is available, then a reference to the deed or document along with a verified statement containing the same information as herein set forth.
- h. A brief verified statement detailing the current use of property; in addition, the applicant may, at its option, include a statement of the prospective use of the property.
- i. Any other documentation which may be required or requested by the Board.
- j. The information required may be set forth in one cumulative verified statement.

- 2. Where the applicant is represented by legal counsel, or by some other authorized third-party representative, the name and address of such third-party representative or counsel shall be submitted and a brief statement that all notices or that copies of notices (as applicable) shall be sent to such counsel or third-party representative.

If the application is signed by an officer or employee of the corporation seeking exemption, then a verified statement of authorization of such officer or employee or such other appropriate authorization, shall accompany the application or be submitted prior to the date for the setting of the hearing on the application. In the event no such authorization is obtained, no hearing date will be set until such authorization officer or representative of the applicant shall be present at the hearing.

- 3. Where applicable, the applicant should submit a brief statement of the law whereby the applicant feels it is entitled to exempt status with specific reference to the statutory section or sections cited, or otherwise pertinent under the laws of the Commonwealth.
- 4. In the event any of the requirements of Section I, subparagraph (a through j) are not presented to the Board, the applicant should either prior to the time of the hearing or at the time of the hearing, be prepared to submit as to the reasons why such documentation is not available or is not submitted to the Board.
- 5. At the option of the applicant, original documents may be submitted to the Board's Secretary for such purposes of permitting copies to be made and all such original documents will then be returned to the applicant. All such copies made, or copies provided to the Board by

the applicant, as the case may be, shall become a permanent part of the file of the Assessment Office of Fayette County.

6. In the event any portion of the property for which exemption is sought, is leased by the applicant or otherwise permitted to be used by any other entity other than the applicant, then applicant shall submit before the date of the hearing, a copy of such lease(s) or brief statement concerning the permissive use arrangement. Such lease copies or statements shall contain the identity of the lessee or user; the amount of rent or other consideration paid by such lessee or user; the terms of such lease or permissive use; and all other items pertinent thereto.
7. When an application for exemption has been submitted and granted the order and applicant thereafter seek additional exemptions on other property, the applicant does not have to re-submit all the supporting documents, but should submit only those which apply to the later appeal(s).

In the event that some of the originally filed exhibits have been updated or amended, then the applicant shall submit such updated or amended documents as soon as available.

I. REPEALER/ADOPTION

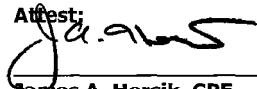
A. PRIOR RULES: All prior rules inconsistent with these rules are Hereby repealed.

B. ADOPTED: Adopted this 28th day of March, 2008, by the Fayette County Board of Assessment Appeals consistent with the powers set forth in Purdon's Section 5453.302 (2).

 (Seal)
Lloyd Moser, Chairman

 (Seal)
Odilla Dee John, Member

 (Seal)
John Rogish, Member

Attest:

James A. Hercik, CPE
Chief Assessor/
Director of Assessments

ADDENDUM I



**Fayette County
Board of Assessment Appeals**

81 East Main Street
Uniontown, Pennsylvania 15401
724-430-1350

Name: _____ Map Number: _____
Address: _____ Municipality: _____
City: _____ School District: _____

APPEAL FROM ASSESSMENT

In accordance with the Pennsylvania Assessment Law of 4th and 8th Class Counties, Section 5453-701(b), any person aggrieved by any assessment may appeal for relief by filing a written statement with the Board of Assessment Appeals, such statement designating the assessment or assessments appealed from and the address to which the Board shall mail notice. If different from above printed address, of when and where to appear for a hearing. All appeal forms must be originals, photocopies and/or facsimiles not accepted.

STATEMENT OF INTENTION TO APPEAL FOR TAX YEAR 2009

Please provide address where Hearing Notice(s) and all other correspondence should be sent if different from above

Mailing Address: (ONLY if different from above) _____
Phone No: _____ Attorney: _____
Property Description: _____

INFORMATION REQUESTED FROM APPELLANT

(Please type or print answers to all questions)
Assessment Appealed: _____ Land _____ L
_____ Building _____ B
_____ Total _____ Claimed Current Market Value _____ T
Age (Main Structure Only) _____ Is this a Rental or Commercial Property _____
(If Yes above, please complete page 2)

Reason(s) for appeal: _____

List comparable sales similar to subject property (Be specific; use reverse if needed):

CERTIFICATE OF APPEAL

I/We hereby declare my/our intention to appeal from the assessment(s) described in the foregoing, and I/we do hereby certify that the statement made by me/us in connection thereto are true and correct and that this appeal is made in good faith.

Date: _____ Signed: _____
Type of Appeal: Yearly Completed form must be returned by: **September 1, 2008**
Appeal No: _____ Date received by Board: _____

ADDENDUM II

FAYETTE COUNTY BOARD OF ASSESSMENT APPEALS

APPEAL FROM ASSESSMENT – Page 2

ANNUAL INCOME AND EXPENSE ANALYSIS

All information provided will be considered confidential. Please complete the rental income section for the current or most recent year; complete the expense section for the three (3) latest years.

Owner: _____

Parcel No.: _____ Appeal No.: _____

ANNUAL INCOME

GROSS ANNUAL RENTAL INCOME (for subject property): \$ _____

ANNUAL EXPENSES

EXPENSE *	20	20	20
OPERATING EXPENSES			
MANAGEMENT FEE %			
LEGAL & ACCOUNTING			
SALARIES & BENEFITS			
ELECTRICITY			
FUEL			
WATER			
SUPPLIES			
MAIN. & REPAIRS			
PAINT. & DECORATING			
CONTRACTED SERVICES			
MISCELLANEOUS			
RESERVE FOR REPLACEMENT (1 Yr.)			
ROOF			
MECHANICAL EQUIP.			
OTHER			
FIXED EXPENSES			
INSURANCE (1 Yr.)			
MISCELLANEOUS			
TOTAL EXPENSES			

* If any of the following categories are utilized, please itemize in the NOTES section listed below:
- Contracted Services
- Miscellaneous Services
- Other

NOTES:

Date: _____ Signed: _____
Owner or Agent

Date Received by Board: _____

ADDENDUM III

REQUEST FOR EXEMPTION

In accordance with Section 5453.202 of Pennsylvania Assessment Law for 4th to 8th Class Counties, which defines those properties eligible for exemption from payment of real estate taxes, I feel that the property indicated below satisfies those requirements, and request that the Fayette County Board of Assessment Appeals consider and grant this petition for exemption. I understand that additional information of a more specific nature may be requested at a later time.

PROPERTY DESCRIPTION

Location: _____

Acreage / Lot No. _____ Map No.: _____

Buildings: _____

Use of Property and Building: _____

OWNERSHIP DATA

Owner or Organization: _____

Mailing Address: _____

Contact: _____ Title: _____ Phone: _____

CLAIMED REASON(S) FOR QUALIFICATIONS (Please be specific; use reverse side if necessary):

ADDITIONAL INFORMATION REQUESTED BY THE BOARD OF ASSESSMENT APPEALS:

- Articles of Incorporation
- Bylaws
- Mission Statement
- PA State Tax Exemption Letter – 501.3c Approval

I certify that the statements made by me in this request are true and correct; and that this request is made in good faith.

Date: _____ Signed: _____

Owner or Agent

Date Received by Board: _____