

INTRODUCED BY: Commissioner Jeff Hall
DATE INTRODUCED: October 31, 2023
PUBLIC HEARING DATE: November 14, 2023
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ADOPTION DATE: November 14, 2023
EFFECTIVE DATE: Upon Adoption

Ordinance 23-25
BOARD OF ASSESSMENT REVIEW

**An Ordinance to amend Kent County Code, Vol. I, Administrative Legislation,
Chapter 9, Board of Assessment Review, §9-9. Duties and adding §9-10.
Preliminary hearings.**

THE LEVY COURT OF KENT COUNTY, DELAWARE, HEREBY ORDAINS:

Section 1. That Kent County Code, Vol. I, Administrative Legislation, Chapter 9, Board of Assessment Review, is hereby amended by adding the following underlined language in §9-9. Duties; and a new subsection §9-10. Preliminary hearings., as follows:

§ 9-1. Appointment; membership.

The County government shall appoint a Board of Assessment Review consisting of seven members.

§ 9-2. Term of office.

The members shall be appointed for an undefined term concurrent with that of the appointing Commissioner, to be served at the pleasure of a majority of the Levy Court. Each Levy Court Commissioner shall be entitled to submit the name of a qualified appointee residing in his or her district for consideration and confirmation by the Levy Court.

§ 9-3. Successors in office.

The term of the appointee who continues to meet the residency requirement as expressed in § 9-4 below shall continue until a successor is named by the Levy Court Commissioner in whose district the appointee resides and is confirmed by the Levy Court.

§ 9-4. Residency requirement.

During the term of the appointment, a member must maintain primary residence within the Levy Court district from which appointed. If a member ceases to meet the residency requirement due to taking residence outside the district or due to redistricting, his or her appointment shall terminate as follows:

- A. Upon the appointment of his or her successor; or
- B. Upon the expiration of one year from the date of noncompliance with the residency requirement; or
- C. Upon a notice of nonconsent expressed by the Levy Court Commissioner (other than the at-large Commissioner) representing the Levy Court district within which the member resides after ceasing to meet the residency requirement.

§ 9-5. Qualifications of appointees.

Persons appointed to the Commission shall be individuals who own real property in Kent County and have knowledge and experience in dealing with property valuation issues in connection with urban and rural development. At the time of appointment and for the duration of the term, members shall not be candidates for, candidates-elect for, or incumbents of an elective county, state or federal public office.

§ 9-6. Filling of vacancies.

Vacancies shall be filled for the unexpired term in the same manner as in the case of regular appointments.

§ 9-7. Compensation.

The County government shall provide compensation in the amount not to exceed \$100 per meeting for members and \$125 per meeting for the chairperson. Payment will be issued during the month following the last day of each quarter of the year. No out-of-pocket expenses or mileage will be reimbursed. Members must be present at meetings to receive compensation.

§ 9-8. Majority required for hearings or carrying motions.

A simple majority of the constituted Board shall be required in order to conduct any public hearing or carry any motion.

§ 9-9. Duties.

The Board shall:

- A. Hear appeals from any property owner who alleges that his or her property has been improperly assessed for purposes of taxation;

- B. Following the hearing of any property owner, and, in the light of the facts produced at such hearing the Board shall determine whether the assessment is correct. Should the Board find that the assessment is incorrect, the Board shall order the Director of Finance to correct the assessment and the Director shall thereupon correct the assessment to the adjusted amount established by the Board;
- C. Review the methods by which the Director of Finance has established the assessments and the results thereof as reflected by the assessment roll. Should the Board find that the procedures used by the Director of Finance require improvement in order to make more equitable and effective the assessment procedure, the Board shall make such recommendations as it deems proper to the County Administrator and file a copy thereof with the Clerk of the Peace;
- D. Prepare such rules and regulations for its operation as it deems appropriate;
- E. When necessary to ensure the timely and orderly processing of appeals regarding the assessed value of a property, appoint hearing officers to conduct preliminary hearings.

§ 9-10. Preliminary hearings.

A. Appointment of Hearing Officers: When necessary to ensure the timely and orderly processing of appeals regarding the assessed value of a property, the Board shall have the authority to appoint Hearing Officers to conduct preliminary hearings for any property owner who alleges that their property has been improperly assessed for purposes of taxation.

B. Qualifications. The Board shall determine the qualifications of Hearing Officers; however, such persons shall be competent and knowledgeable about property tax assessments and valuation of real property.

C. Conflicts of interest. No hearing officer shall knowingly participate in a proceeding where the member has an interest in either the subject matter of or a party to the proceeding of such nature that it could reasonably be expected to influence the impartiality of their judgment in the proceeding.

D. Challenges. Hearing officers challenged by a party may, upon a proper challenge, be replaced by another Hearing Officer as determined by the Board.

E. Powers. A Hearing Officer is authorized to make a preliminary determination on an appeal and make any such recommendations to the Board as the Hearing Officer deems appropriate based on the evidence presented.

F. Conduct of Hearing. The hearing shall be open and public. The hearing shall be

conducted in an informal manner except that all testimony shall be taken under oath or affirmation. The claimant shall present his/her case first. The claimant has the burden of proving the grounds on which the claim is based. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence or objection in civil actions. The Hearing Officer shall be bound by the same statutes, rules, regulations and ordinances that are applicable to the assessor or other county official. The Hearing Officer may limit the time of the hearing as necessary to ensure the timely and orderly conduct of hearings. The Hearing Officer shall issue a preliminary determination in writing within thirty(30) days of the preliminary hearing.

G. **Appeal.** Any property owner aggrieved by the preliminary determination of a Hearing Officer shall have the right to appeal the determination to the Board. Such an appeal shall be made within ten (10) days of the filing of preliminary determination.

H. **Board Review.** If the Board determines a preliminary determination has been properly made, the Board may upon majority vote approve the determination without conducting a formal hearing and refer the appellant to a court of competent jurisdiction for further appeal.

§ 9-101. Judicial review.

Nothing herein shall be construed as limiting the right of a property owner to appeal to the courts in connection with the assessment of his or her property for taxation as provided by law.

§ 9-112. Obligations and rights of property owners.

The adoption of this chapter shall in no manner relieve any property owner of any obligation theretofore imposed upon him or her with respect to the rendition of assessment of any property or the payment of any tax, nor shall it in any manner increase the responsibilities of such property owner, nor deny him or her of any right heretofore possessed except to the extent specifically provided in this chapter or in state law.

§ 9-123. Authority.

This chapter is adopted pursuant to the powers conferred upon the Levy Court of Kent County, Delaware, in 9 Del. C. § 4125.

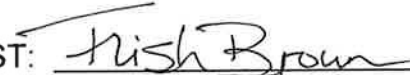
Section 2. **Severability.** The provisions of this Ordinance are severable and if any of its provision or any sentence, clause, or paragraph shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

Section 3. **Effective Date.** This Ordinance shall become effective upon adoption.

ADOPTED BY THE LEVY COURT
OF KENT COUNTY, DELAWARE



Terry L. Pepper, President
Kent County Levy Court
This 14th day of November, 2023

ATTEST: 
Clerk of the Peace, Deputy

SYNOPSIS

This Ordinance creates a process for appointing hearing officers and for conducting preliminary hearings regarding the assessed value of property for any property owner who alleges that their property has been improperly assessed for purposes of taxation.