

## Memo

**Date:** 3/18/2020

**To:** All Local Boards of Appeal and Equalization, City and Township Clerks, County and Local Assessors

**From:** Jon Klockziem

### COVID-19 and Local Board of Appeal and Equalization (LBAE) Meetings

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As Minnesota responds to COVID-19, be assured that the Minnesota Department of Revenue remains open and ready to help with property tax administration. We have received many questions on how COVID-19 will affect this year's local board of appeal and equalization (LBAE) planning and meetings.

It is important to us to provide guidance on how to proceed with LBAE meetings and meet statutory requirements while keeping everyone safe and healthy. It is crucial that each assessor's office work closely with the local boards in your county. Consistent communication is key to avoid confusion and frustration for all involved in the local board process.

#### Preparing for Local Board Meetings

Remember that it is the local board's meeting and they will need to create policies that protect the safety of board members, assessor staff, and citizens. We strongly recommend you work together to create meeting procedures and policies that work for all.

Minnesota Statute 274.01 provides requirements for LBAE meetings. This statute does not consider an emergency situation of the current nature, nor does it include any basis or process by which these requirements may be waived or excused.

We encourage each board to create ways to comply with these requirements as policies are put into place. The requirements include, but are not limited to:

- **Meeting Dates** – The LBAE meeting dates must be sometime between April 1 and May 31. Statute does not allow LBAE meetings outside these dates.
- **Attendance** – There must be a quorum, trained member, and assessment staff present for each meeting. The Open Meeting law allows meetings to take place virtually, as explained below.
- **Non-Compliance** – If a board does not have a trained member and quorum at every appeal meeting, the assessor will need to take over the meeting and turn it over to an Open Book meeting for at least 2 years.
- **Post/Publish** – LBAE clerks must post or publish a notice of the meeting at least 10 days before the meeting, as listed in statute, to communicate to property owners about their appeal rights.
- **Valuation Notices** – Assessors must mail the valuation notice at least 10 days before the LBAE meeting.

Finally, we want to address many assessors' standard practice of physical inspections of properties that are the subject of an appeal. The department fully supports the practice of physically inspecting properties before a local board meeting; however, state law does not require it.

If the LBAE has a policy that requires physical inspections, the board may revisit its policy in light of COVID-19. Alternatives to a full inspection include external inspections and allowing the property owner to provide proof in another way. When reviewing or creating inspection policies, the top priority should be the health and safety of all county and city staff, board members, and property owners.

### **Convening Local Board Meetings**

Each LBAE has the authority to create policies for their LBAE meeting. Boards must meet the basic requirements in the statute but may otherwise decide on the format of their meetings, format of appeals, timeframes for appellants, inspection requirements, etc.

We urge all LBAEs to carefully consider COVID-19 precautions and the recommendation for all Minnesota citizens to practice social distancing. For details about social distancing and other protective measures, visit the Minnesota Department of Health website, [www.health.state.mn.us](http://www.health.state.mn.us).

### **Virtual Meeting Option**

All public meetings must abide by the state's Open Meeting law (Minnesota Statutes, [Chapter 13D](#)). The law allows boards to establish a quorum and hold public meetings virtually – that is, “by telephone or other electronic means.”

If certain conditions are met, local boards can conduct their 2020 LBAE meeting virtually, and can require property owners to submit their appeal in writing rather than in-person. For details, see Current Guidance on Virtual Meetings (below).

If the board decides to hold a virtual LBAE meeting, it must communicate this policy and procedures for that meeting to property owners immediately.

- If valuation notices have already been sent to property owners, the city/township may use website updates, email blasts, newspaper or radio announcements, social media accounts, and mailed notices.
- The county does not need to send new valuation notices, but can help the city/township communicate its policy to the public.

Governor Walz has declared an emergency under Chapter 12, therefore if the board decides to forego a virtual meeting and proceed with an in-person meeting, the board is required to also allow any board member, county representative, and/or taxpayer to virtually attend the LBAE meeting.

### **Current Guidance on Virtual Meetings**

On March 17, 2020, the Data Practices Office of the Minnesota Department of Administration provided the following guidance with respect to the Open Meeting Law:

- [Section 13D.021](#), subdivision 1 permits public bodies to hold meetings via telephone or other electronic means if the conditions of this section are met.
- Section 13D.021 requires a public body to make a determination that an in-person meeting is "not practical or prudent because of a health pandemic or an emergency declared under chapter 12." At this time, the governor has declared an emergency under Ch. 12.

- Requirements for holding a meeting via telephone or other electronic means include:
  1. All participating members can hear one another;
  2. Members of the public at the physical meeting location can hear all discussion "unless attendance at the regular meeting location is not feasible due to the health pandemic";
  3. At least one member of the public body is present at the meeting location, "unless unfeasible due to the health pandemic"; and
  4. All votes are taken by roll call.
- To the extent practical, public bodies should allow the public to monitor the meeting remotely, pursuant to subdivision 3 of this section.
- For further assistance regarding the Open Meeting Law, you may contact the Data Practices Office by email at [info.dpo@state.mn.us](mailto:info.dpo@state.mn.us) or by phone at 651-296-6733 or 800-657-3721.

We are also encouraging boards to consult with a city or county attorney regarding a virtual meeting policy to be sure all statutory requirements are met before this policy is communicated to property owners.

### **Convene, Recess, Reconvene, and Adjourn Option**

Boards may recess their initially convened meeting and reconvene later to provide more time for the social distancing and self-quarantine restrictions to potentially be lifted or to allow more planning. They must meet all statutory requirements for doing so. The requirements include:

- The LBAE must initially convene sometime between April 1 – May 31.
- If the meeting is recessed the LBAE must reconvene and adjourn the meeting within 20 days of the initial convene date.
- The LBAE must adjourn no later than May 31.

The law authorizes Revenue to grant an extension to the 20-day rule for boards that cannot complete their work or adjourn within that timeframe. We expect some boards will implement this practice and are approving an automatic 20 day extension for all LBAE meetings in 2020.

There is no need to contact the department for an extension. The board can set a reconvene date beyond 20 days. However, they must complete their work and adjourn by May 31 as required by law.

**Reminder:** As we stated previously, LBAEs can implement other practices to adapt the appeal process for property owners, county staff, and board members. We strongly encourage counties and boards work closely together while discussing and creating these practices. A consistent message to all involved is very important and an excellent way to provide quality customer service.

### **Open Book Meetings**

For jurisdictions that offer appeals through Open Book meetings, the policies and procedures for these meetings should follow the county's COVID-19 plan. Be sure to communicate these plans with the property owners so they know what to expect.

It's important to note that statutory requirements for voluntarily transferring local board powers to the county must be met – the law provides no exceptions. Boards must notify the county assessor by December 1 if they want to voluntarily transfer their board powers for the following assessment year. This transfer of powers must be for a minimum of 3 years. (See Minnesota Statute 274.01, subdivision 3.)

As we are past December 1, 2019, it's no longer possible for boards to voluntarily transfer their powers to the county for 2020. If a board now decides to transfer its powers, it will not be effective until the 2021 LBAE season. **Note:** This is not related to the non-compliance portion of the statute; those requirements are still enforced as we stated in the Preparing for Local Board Meetings section, above.

### **Who can I contact if I have questions?**

If you have questions about the local board process, email [proptax.bae@state.mn.us](mailto:proptax.bae@state.mn.us).

Our top priority is to provide guidance to help counties in keeping local and county staff, board members, and property owners safe and healthy. Again, we strongly encourage that cities, counties, boards, and the state work together to be sure legal requirements are met and property owners can exercise their right to appeal.

Thank you for your understanding and patience as we move through this unique situation together.