

BOARD OF ASSESSMENT REVIEW
OF NEW CASTLE COUNTY
RULES OF PROCEDURE

Article I. Authorization

The Board of Assessment Review of New Castle County (the "Board") is established and authorized under 9 *Del. C.* § 1371A.

Article II. Functions

Section 1. The Board shall hear timely and properly filed appeals from any property owner who alleges that their property has been improperly assessed for the purposes of taxation. The Board, based on the evidence presented at the appeal hearing, shall determine whether the assessment is correct. If the Board finds that the assessment is greater than it should be, the Board shall order the New Castle County Office of Finance, Assessment Division ("Assessment") to reduce the assessment to the amount established by the Board. The Board shall not increase any assessment established by Assessment.

Section 2. Pursuant to Section 14.06.1111 of the *New Castle County Code*, the Board shall hear timely and properly filed appeals from denials of applications of property tax exemptions subject to appeal to the Board under applicable Delaware law or the *New Castle County Code*.

Article III. Duties of Assessment

Assessment shall, at the direction of the Board, receive and docket all appeals, prepare and send all official correspondence of the Board, prepare and send all notices required by law and by these Rules, keep records of all official actions of the Board, and perform all duties required by law and these Rules. Assessment may utilize such employees and agents as it determines necessary to fulfill these duties.

Article IV. Board Members

Section 1. The Board shall consist of a Chairperson and eight (8) regular members, as well as three (3) alternate members, appointed in accordance with and serving terms as established by 9 *Del. C.* § 1371A.

Section 2. Any regular or alternate member of the Board whose term has expired shall hold over and continue in their office until a successor has been duly appointed.

Section 3. Any regular or alternate member of the Board who ceases to be a resident and freeholder of New Castle County shall resign from the Board within thirty (30) days following the termination of such Board member's residency or status as a freeholder of New Castle County.

Article V. Chairperson

Section 1. The Chairperson shall preside over all meetings of the Board, decide all points of order or procedure, and perform all duties required by law or these Rules.

Section 2. In the absence of the Chairperson, those members of the Board who are present shall designate a regular member to serve as Acting Chairperson, who shall preside and who may exercise all powers with which the Chairperson is vested by law or these Rules.

Section 3. The Chairperson shall be permitted to vote on any motion pending before the Board or a panel thereof.

Article VI. Appeal Form and Data Requirements

Section 1. Any person desiring to take an appeal before the Board shall, within the periods established by law or Assessment, complete an official form approved by the Board and provided by Assessment. The Board presently has forms permitting appeal of Residential, Non-Residential, and Farmland Assessment, as well as appeal of exemption removal or denial. Appeals of separate tax parcels shall be submitted on separate appeal forms. Appeals for separate tax parcels set forth on a single appeal form will not be considered.

Section 2. Unless otherwise directed by the Board or agreed to by Assessment, an appellant shall file one original copy of their appeal form and all supporting documentation with the Board on or before the date established by law by emailing the files to BOARAppeals@newcastlede.gov, or delivering them to the Office of Finance, Assessment Division, New Castle County Government Center, 87 Reads Way, New Castle, DE 19720, not later than 4:00PM. For purposes of this section, an appeal form shall be considered late if it is not electronically received in Assessment's inbox, or physically received in the offices of Assessment, by the aforesaid deadline, regardless of any postmark or other evidence of the date or time of the submission. Late appeal forms shall be received but shall not be docketed, processed, or scheduled for hearing until the next annual appeal period, and any reduction in assessment shall not become effective until the commencement of the next tax year.

Section 3. With respect to any appeal form that Assessment believes is deficient in that it does not contain competent evidence of substantial overvaluation, Assessment shall advise the appellant in writing of the deficiency and provide the appellant a period of at least ten (10) days for its correction, and further advise the appellant that if the deficiency is not corrected, that Assessment shall present that appeal to the Chairperson for designation as a deficient filing. Assessment shall not designate as deficient any appeal supported by an opinion providing a fair market value as of the date of the most recent reassessment base year that has been prepared by an appraiser licensed or permitted to practice in the State of Delaware by the State Council on Real Estate Appraisers pursuant to 24 *Del. C.* ch. 40. After the expiration of the correction period provided by Assessment, if Assessment believes that the deficiency has not been cured, Assessment may notify the Board Chairperson of its determination that the appeal is deficient. If the Chairperson disagrees that the appeal is deficient, the appeal shall be scheduled for a hearing on the merits. If the Chairperson agrees that the appeal is deficient, the appeal will be scheduled for a hearing solely for the Board to vote on whether the appeal should be dismissed as deficient. If the Board determines the appeal is deficient, the appeal shall be denied.

Section 4.

- (a) An appellant relying on the income approach may be contacted by Assessment to submit within thirty (30) days of the date of Assessment's request any or all of the following:
 - (1) Contact information to arrange inspection of the property;
 - (2) Contact information for the property owner (or authorized representative) to be interviewed regarding background on property financials, operations, and physical condition;
 - (3) Contact information for leasing broker;
 - (4) Rent roll as of date of the most recent reassessment base year;
 - (5) Leases for units in excess of 5,000 square feet in effect as of the date of the most recent reassessment base year;
 - (6) Proforma budget as of date of the most recent reassessment base year;

(7) Year-to-date operating statement as of date of the most recent reassessment base year, as well as operating statements for the three calendar years preceding the date of the most recent reassessment base year;

(8) Survey and floorplan;

(9) Additional information appellant believes affects the property's value; and

(10) Additional information requested by Assessment that is prompted by the receipt and review of the documents and information provided or the particular nature of the property.

The appellant shall respond to Assessment's request in an electronic format by emailing the files to BOARAppeals@newcastlede.gov, or by regular mail to the address included above at Article VI, Section 2. If the appellant: (i) fails to submit to Assessment the requested information and documentation within thirty (30) days of the date of Assessment's request, (ii) fails to allow an inspection, or (iii) fails to participate in an interview, Assessment shall notify the Board Chairperson. Upon request for a reasonable extension for good cause, the Chairperson may grant an extension for the appellant to comply. If the appellant fails to submit the requested information and documentation or request an extension before the deadline, the Chairperson shall direct Assessment to schedule the appeal for a deficiency hearing. At the deficiency hearing, the Board shall hear evidence solely on whether the appeal should be dismissed as deficient for appellant's failure to provide information on which Assessment may defend the appeal. If the Board determines the appeal is deficient, the appeal shall be denied.

- (b) An appellant relying on the comparable sales approach may cite only comparable sales, not allegedly comparable assessments. Comparable sales to be cited or otherwise relied upon by the appellant at an appeal hearing must be identified with specificity in the appellant's appeal form, including any applicable valuation adjustments to those comparable sales. The appellant will not be permitted to testify concerning any comparable sale not listed on their appeal form.
- (c) An appellant asserting that Assessment must consider any relevant factor affecting the value of a property must identify such factors on the appeal form. Factors not so identified shall be deemed waived by the appellant and shall not be considered by the Board.
- (d) All appraisal reports presented by either an appellant or Assessment shall be prepared by an appraiser licensed or permitted to practice in the State of Delaware by the State Council on Real Estate Appraisers pursuant to 24 *Del. C.* ch. 40. The Board will only consider an appraisal report prepared within one (1) year before the date of the most recent reassessment base year, or an appraisal report establishing a valuation as of the date of the most recent reassessment base year.

Section 5. An appellant shall not cite more than six (6) comparable sales on their appeal form or at the hearing. If an appellant's appeal form cites more than six (6) comparable sales, they will be permitted at the hearing to discuss only the first six (6) listed on the form. This limitation shall not apply to appraisal reports prepared pursuant to Article VI, Section 4 of these Rules.

Section 6.

- (a) If the appellant wishes to rely upon an appraisal report at the appeal hearing, they must submit one copy of that report to Assessment with the appeal form, and additional copies upon request by the Board. The Chairperson may extend the period for submitting an appraisal report if the appellant shows good cause. If the appellant does not provide an appraisal report in the time granted by the Chairperson, the Chairperson may grant an

additional extension or direct Assessment to schedule the appeal for a deficiency hearing. In no event shall the Chairperson extend the time for filing an appraisal report more than one (1) year after the appeal deadline without a vote of a majority of the members of the Board authorizing such extension.

Special rule only for appeals of the 2025 annual assessment filed by the March 31, 2025 deadline: If the appellant discloses on their appeal form that they intend to rely on an appraisal report that will not be complete by the March 31, 2025 appeal deadline, the appellant may submit the appraisal report by June 16, 2025. The Chairperson may extend the period for submitting an appraisal report if the appellant shows good cause. If the appellant does not provide an appraisal report by June 16, 2025 or any extended deadline granted by the Chairperson, the Chairperson may grant an additional extension or direct Assessment to schedule the appeal for a deficiency hearing. In no event shall the Chairperson extend the time for submitting an appraisal report more than one (1) year after the appeal deadline without a vote of a majority of the members of the Board authorizing such extension.

- (b) If Assessment intends to rely upon an appraisal report or other expert opinion (other than that of an employee of Assessment), Assessment shall produce the report and identify such expert to the Board and the appellant at least twenty-one (21) days before the first scheduled date of the appeal hearing.
- (c) The Board shall not permit the introduction of any appraisal report, or the evidence contained therein, unless the report has been previously provided as required under these Rules and, except as provided in Article VIII, Section 2 of these Rules for panel and referee hearings, the author of the report is present and available for cross-examination.

Section 7. Any appellant who files a timely appeal shall be provided a summary of these Rules of Procedure, substantially in the form set forth in Appendix I, outlining the legal standards applicable to assessment, the burdens of proof on assessment appeals, and the procedures followed by the Board.

Section 8.

- (a) Any potential witness who may testify on the appellant's behalf shall be identified on the appellant's appeal form. If requested by the appellant either on the appeal form or at least thirty (30) days before the first scheduled date of the appeal hearing, Assessment shall identify all witnesses who may testify on its behalf at least twenty-one (21) days before the hearing. The Board shall not permit any witness to testify at the hearing unless previously identified as required under these Rules.
- (b) An appellant may request that Assessment disclose each exhibit that it intends to present in its defense of the assessment. Such requests shall be made on the appeal form by checking a box on the form indicating that appellant seeks the production of Assessment's documents. Upon receipt of an appeal form indicating appellant's request for disclosure, Assessment shall make one copy of each exhibit available to the appellant at the New Castle County Government Center, during regular business hours, or by e-mail at least twenty-one (21) days before the hearing. The receipt of documents in compliance with these Rules shall not serve as the basis for a continuance. Until the Board has determined that the appellant has presented competent evidence of substantial overvaluation, the Board shall not consider, or permit the appellant to reference, Assessment's exhibits. Assessment shall not be required to disclose any exhibit it may submit as impeachment evidence during the appellant's case-in-chief. Disclosure shall not be required for a hearing on a deficient appeal held under Article VI, Section 3 of these Rules. Documents not disclosed in compliance with these Rules shall not be considered at any hearing.

Article VII. Meetings and Hearings

Section 1. The Board shall meet at some public and convenient place in New Castle County, at least on a quarterly basis during the months of January, April, July, and October, to hear assessment appeals on a schedule determined by it to be the most appropriate and efficient to handle appeals in a timely manner. At its regularly scheduled meetings, the Board shall also perform any other functions required by law or conduct any administrative business. Assessment shall publish in December the Board's tentative meeting schedule for the next calendar year. The Chairperson and Assessment, in conjunction, may schedule additional meetings as needed and may modify the Board's meeting or hearing schedule as needed. If there are no appeals to be heard or no other business before the Board, the Chairperson may cancel a scheduled meeting.

Section 2. A quorum of the Board is necessary to transact business at any meeting or hearing. A quorum shall consist of any five (5) regular or alternate members appointed to the Board, unless the Board has elected, in accordance with 9 *Del. C.* § 1371C(c) and Article VIII of these Rules, to hear appeals in panels of three (3) members or by authorized referees individually. For the purpose of determining the existence of a quorum, the Chairperson (or, if applicable under Article V, Section 2 of these Rules, the Acting Chairperson) shall be considered as a member. In no event shall more than nine (9) total members of the Board transact business as a Board other than at a meeting or portion of a meeting scheduled for training purposes only.

Section 3. The vote of a majority of the members present at any meeting or hearing of the Board shall be necessary to carry a motion. The right of the Chairperson to vote on a motion shall be as provided in Article V, Section 3 of these Rules. In no event shall more than nine (9) total members of the Board vote on a motion before the Board.

Section 4.

- (a) No later than thirty (30) days before a scheduled hearing, each appellant and counsel or representative of record shall be notified by mail (or email, if the appellant has provided an email address for notice purposes) of the date, time, place, and manner of the hearing. The date of the mailing of the notice is the day of the giving of such notice, and notice shall be deemed received if mailed to the mailing address set forth on the appellant's appeal form. The date of emailing the notice is the day of giving notice and shall be deemed received if emailed to the email address the appellant provided for notice purposes.
- (b) In addition to the notice to appellants required under subsection (a) of this section, Assessment shall, on behalf of the Board, give sufficient public notice of all meetings or hearings of the Board to comply with the provisions of the State Freedom of Information Act (29 *Del. C.* ch. 100).

Section 5. The procedure for evidentiary hearings before the Board shall be as follows:

- (a) The Chairperson will read into the record a statement identifying the appellant, their property, and the amount of the assessment being appealed. The Chairperson shall also advise all parties of any time limitation applicable to the appeal hearing, in accordance with Section 7 of this Article.
- (b) All witnesses who wish to testify before the Board shall testify under oath. Any form of attestation by which a witness signifies that they are bound in conscience to testify truthfully shall be sufficient. The Chairperson shall administer all oaths.
- (c) The appellant shall present relevant evidence, including witness testimony and including any legally admissible documentation or other evidence, in support of a lower assessment, so long as such evidence was disclosed in the appellant's appeal form or any supplement thereto provided to Assessment at least twenty-one (21) days before the hearing. The

Board shall not consider evidence that is not disclosed on the appellant's appeal form or any timely supplement permitted under these Rules. An appellant may supplement their appeal form only in response to a deficiency notice (in accordance with Article VI, Section 3 of these Rules) or when the appellant has indicated on their appeal form that an appraisal report would be forthcoming and the appellant submits it within any extended time granted.

- (d) An Assessment representative may then cross-examine the appellant concerning the evidence presented.
- (e) Board members may question the appellant on appellant's evidence.
- (f) If the appellant has not presented any competent evidence of substantial overvaluation, consisting of techniques or methods which are generally considered acceptable in the financial or real property appraisal communities and otherwise admissible in court, the Board may, either on the motion of Assessment or a Board member, deny the appeal without receiving further testimony.
- (g) If the appellant has presented competent evidence of substantial overvaluation, an Assessment representative may present evidence in support of the assessment of record or any lower value they believe accurately reflects the fair market value of the property as of the date of the County's most recent reassessment base year. Assessment shall not present any document during the hearing not previously provided to an appellant who previously made a timely request for the production of Assessment's documents on their appeal form, as provided for in these Rules.
- (h) If an Assessment representative has presented evidence, the appellant shall have the opportunity to cross-examine them concerning that evidence.
- (i) After cross-examination by the appellant, Board members may question the Assessment representative on Assessment's evidence.
- (j) The appellant may then rebut any evidence presented by Assessment.
- (k) Assessment will be given an opportunity to cross-examine the appellant on any rebuttal evidence.
- (l) Upon the conclusion of the presentation of the evidence, the appellant and the Assessment representative may each make a short closing statement to the Board summarizing their positions but introducing no further evidence.
- (m) The Board will consider and decide the appeal in the presence of the appellant and the Assessment representative. In reaching its decision, the Board may consider only competent evidence submitted at the appeal hearing. If the Board concludes that the appeal presents a novel issue of law, the Board may ask the Board's counsel to prepare a draft opinion to be considered at the next set of hearings. The Board's counsel shall provide notice to the appellant and Assessment of such hearing with a copy of the draft opinion. Either appellant or Assessment may request an opportunity to brief any issue of law identified by the Board as novel before the Board voting to adopt any decision.

Section 6.

- (a) The appellant may appear on their own behalf or by counsel or other agent at the hearing; provided, however, that (i) an appellant that is an entity (*e.g.*, a corporation, limited liability company, or partnership) may not appear by an agent who is not either an attorney licensed to practice before the Delaware Supreme Court or an employee of that entity, and (ii) individuals may not be represented by a non-attorney advocate or representative. Attorneys who are not licensed to practice before the Delaware Supreme Court must comply with Delaware Supreme Court Rule 72, and all applications for admission must be filed with the Board through Assessment at least twenty-one (21) days

before the first scheduled hearing at which the attorney intends to appear. All applications for admission under Supreme Court Rule 72 shall be considered and approved or denied by the Chairperson.

- (b) An appellant may receive an administrative continuance of their hearing if, within five (5) business days of the date of the mailing or emailing of the notice of hearing (as provided in Article VII, Section 4(a) of these Rules), the appellant submits a continuance request in writing via certified mail to Assessment, or to Assessment at the following e-mail address: BOARappeals@newcastlede.gov.¹ If an appellant requests a continuance in said manner, Assessment shall administratively continue the appeal to a future hearing date. Only the first continuance request shall be permitted under this subsection. Any additional continuance request, or any continuance request that Assessment does not receive within five (5) business days of the date of the mailing or emailing of the notice of hearing, must comply with subsection (c) of this section.
- (c) An appellant may seek a continuance that does not qualify for an administrative continuance as set forth in subsection (b) of this section. To do so, an appellant must, before the date and time scheduled for the hearing, provide a written request to Assessment setting forth extraordinary circumstances beyond the appellant's control that have resulted in their need for a continuance. Assessment shall submit the request to the Chairperson, along with its position on the request. If the Chairperson concludes that the appellant has established extraordinary circumstances that justify a continuance, the appeal hearing may be rescheduled to a future hearing date.
- (d) If the appellant or their representative fails to appear at the appeal hearing within fifteen (15) minutes after the time scheduled, unless the appeal hearing has been continued, the appeal shall be deemed abandoned; provided, however, that an appellant is not required to attend the hearing during which the Board considers the appellant's appeal based on the recommendation of a referee or panel (as provided in Article VIII, Section 2 of these Rules).
- (e) (i) Assessment may seek a continuance for cause (including, but not limited to, the unavailability of a witness) of a hearing that has been noticed. If feasible, Assessment will seek to obtain consent of the appellant to the continuance. If the appellant consents to the continuance in writing, Assessment may continue the appeal hearing without further procedure.

(ii) If the appellant does not consent (or Assessment is unable to timely determine appellant's position on the continuance request), Assessment may request the continuance in writing through the Board's counsel. Counsel shall communicate that request to the Chairperson. The Chairperson shall engage in best efforts to promptly consider and respond to the continuance request of Assessment. Upon finding that sufficient cause has been shown, the Chairperson may grant Assessment's request for a continuance.
- (f) Nothing in this section limits the right of the appellant or Assessment to seek a continuance of a hearing at the hearing for cause.
- (g) Upon receiving the written consent of Assessment, a municipality in which a tax parcel is located and that relies upon the assessment of that tax parcel prepared by Assessment pursuant to 22 *Del. C.* ch. 11 may appear and be heard in defense of the assessment of such tax parcel. The municipality shall be subject to all provisions of these Rules applicable

¹ An automatic reply will be generated in response to an e-mail sent to this address. If an appellant does not receive an automatic reply, the appellant **must**, within two (2) business days, contact Assessment in person or by phone at (302) 395-5559. If Assessment is able to verify a timely continuance request, Assessment shall administratively continue the appeal.

to Assessment. Assessment shall note that the assessment is being defended by the municipality on the hearing schedule issued pursuant to Article VII, Section 4 of these Rules.

Section 7. Unless additional time is requested by the appellant, Assessment, or a member of the Board, the appellant and Assessment shall each be limited to fifteen (15) minutes to present evidence and argument regarding the assessment of residential property when neither appellant nor Assessment present the opinion of an expert (including an appraiser licensed or permitted to practice in the State of Delaware by the State Council on Real Estate Appraisers pursuant to 24 *Del. C.* ch. 40). In its discretion, the Board may establish time limits for all other appeal hearings. If the Board does establish such a time limit, it shall advise the appellant and Assessment of the limit at the time the appeal is noticed for hearing and shall equally divide the time allocated between the appellant and Assessment. The Board may, in the interests of justice, expand the time allocated to any party.

Section 8. If, as a result of delays experienced by the Board, an appellant's appeal cannot be heard within thirty (30) minutes after the time scheduled, the appellant shall be given a choice of waiting until the Board reaches their appeal docket or of receiving a continuance to the next available hearing date.

Section 9. All meetings, hearings, and proceedings of the Board, except executive sessions held for the purposes set forth in 29 *Del. C.* § 10004(b), shall be open to the public. A record of all public proceedings shall be maintained.

Article VIII. Panels and Referees

Section 1. The Board may, in accordance with 9 *Del. C.* § 1371C(c), elect to hear appeals in panels of three or more Board members.

Section 2. Whenever the Board has elected under 9 *Del. C.* § 1371C(c) to hear appeals in panels, or whenever County Council has elected under 9 *Del. C.* § 1371C(b) to appoint referees to individually hear appeals, all hearings shall conform to the procedures outlined in Article VII of these Rules, with the following exceptions:

- (a) Any panel or referee shall maintain a summary record, substantially in the form set forth in Appendix II, of all proceedings before it.
- (b) If the appellant or their representative fails to appear, the appeal is not deemed abandoned. Instead, the appellant only has waived their right to present testimony and cross-examine Assessment's witness. The panel or referee shall base its recommendation only on the appellant's appeal form and any exhibits or testimony submitted by Assessment.
- (c) The appellant or their representative may present an appraisal report based solely on the comparable sales approach without the author of the report being present and available for cross-examination, if the appraisal report meets all the other requirements of Article VI of these Rules (including that the appraisal report was timely submitted, prepared by a Delaware licensed appraiser, and prepared within one (1) year before the date of the most recent reassessment base year, or establishing a valuation as of the date of the most recent reassessment base year). Regardless of whether the appellant or their representative has chosen not to attend the panel or referee hearing and regardless of whether the author of the appraisal report is present, Assessment may provide evidence, including expert testimony, that contradicts or questions the appellant's appraisal report. The panel or referee shall give the appraisal report the weight they determine it deserves.
- (d) The decision of a panel or referee shall be issued in writing and sent to the appellant by mail (or email, if the appellant has provided an email address for notice purposes). The decision shall not be final but shall serve merely as a recommendation to the entire Board. At least ten (10) days before the Board hearing date, the appellant and their counsel or

representative of record shall be advised of the date, time, place, and manner of the hearing at which the Board shall consider the recommendation and issue a final decision. The date of the mailing of the notice is the day of the giving of such notice, and notice shall be deemed received if mailed to the mailing address set forth on the appellant's appeal form. The date of emailing the notice is the day of giving notice and shall be deemed received if emailed to the email address the appellant provided for notice purposes.

- (e) At a meeting called in conformity with all applicable notice requirements of State law, a quorum of the Board shall meet to consider all recommendations by panels and referees. At such meetings, which any interested members of the public may attend, the Board shall consider only the appellant's appeal form (including any supplemental evidence appellant presented to the panel or referee pursuant to Article VII, Section 5(c) of these Rules), any evidence presented by Assessment, and the recommendation of the panel or the referee, and shall not consider the introduction of further testimony or further evidence. The Board shall determine if the assessment is correct on the basis of the record of the appeal hearing and the recommendation of the panel or the referee.

Article IX. Formal Decisions

Following each appeal hearing, the Board shall forward to Assessment a brief written statement of its decision and the basis therefor. The Board's written statement shall be the Board's final decision on the appellant's appeal. Assessment shall, in accordance with the provisions of State law, mail a copy of that statement to the appellant or the representative who appeared on their behalf at any hearing.

Article X. Reconsideration or Reargument

Section 1. Applications for reconsideration or reargument are not favored and shall be considered only in cases of clear error of law or of fact. The Board will not consider an application that attempts merely to reargue matters already considered in the original hearing or to present additional evidence that, in the exercise of reasonable diligence, could have been presented at that hearing.

Section 2. An application for reconsideration or reargument shall be in writing and shall be filed with Assessment within ten (10) days after the date of the issuance of the Board's written decision. If an application for reconsideration or reargument is filed by Assessment, a copy of the application shall be served by mail on the appellant at the address set forth on their appeal form.

Section 3. No response shall be made to any application for reconsideration or reargument without the Board's direction. The Board shall not grant any such application without first directing the opposing party to file a brief response to each ground asserted in the application.

Section 4. The filing or pendency of an application for reconsideration or reargument shall not toll the period in which an appeal may be taken from a decision of the Board to the Superior Court.

Article XI. Judicial Review of Board Decisions

Section 1. At the conclusion of any hearing, the Chairperson shall advise the appellant of the right to seek judicial review in the Superior Court within thirty (30) days by postmark date of receiving written notice of the Board's decision.

Section 2. In the event of an appeal to the Superior Court, Assessment shall prepare and file with the Prothonotary a transcript of all proceedings before a quorum of the Board and a record of all evidence submitted to the Board. The party taking an appeal from the Board's final decision shall reimburse Assessment for the actual costs of preparing the transcript and evidence filed with the Prothonotary. Unpaid invoices may be referred to the New Castle County Office of Law for enforcement. Interest will

accrue on unpaid invoices at the rate set forth in 6 *Del. C.* § 2301(a). Subsequent appeals by appellants with amounts outstanding under this section shall be deemed deficient and shall be denied.

Article XII. Application and Amendments

Section 1. The purpose of these Rules is to fairly and efficiently administer the appeals process. The Board, upon motion and approval by a majority of the members attending any meeting of the Board, may temporarily suspend any procedural or temporal rule set forth in these Rules for good cause shown on a case-by-case basis.

Section 2. These Rules may be amended upon the motion of a quorum of the Board.

Section 3. Assessment may recommend changes to the forms attached to these Rules, which shall be submitted to the Board for consideration and approval.

Appendix I

Summary of the Rules and Procedures on Appeals to The Board of Assessment Review of New Castle County

This is to acquaint you with the procedures followed by the Board of Assessment Review (the "Board") in assessment appeals, so that you will better understand how your case will be handled.

The Board sits to hear appeals from the assessed values placed on real property in New Castle County. To file an appeal, you must present an original appeal form to the Office of Finance, Assessment Division ("Assessment") by the deadline established by law by emailing the files to BOARAppeals@newcastlede.gov, or delivering them by hand or mail to the Office of Finance, Assessment Division, New Castle County Government Center, 87 Reads Way, New Castle, DE 19720, to be received not later than 4:00PM. The special deadline applicable only to the filing of 2025 annual assessment appeals is March 31, 2025. **Your appeal form must be completed fully and you must timely submit all required documentation in accordance with the Board's Rules, or the Board may deny your appeal as deficient without a hearing on the merits of your appeal.**

You will be notified of the date, time, place, and manner of your hearing by mail or by email if you have provided an email address for notice purposes. Hearings are generally held during the day and are usually held at the New Castle County Government Center, 87 Reads Way, New Castle, DE 19720.

Hearings are held before the Board, composed of eight (8) members and a Chairperson. If warranted, the Board may choose to hear cases in panels of at least three (3) members or by individual referees; if it does so, the panel or referee will hold a public evidentiary hearing regardless of whether you or your representative appears in person and will make a recommendation at the conclusion of that hearing as to the appealed assessed value of your property. The panel's or referee's recommendation is not final but will be presented to the full Board at a later hearing which you may attend (but at which no further testimony or evidence will be received).

If you are an individual, you may present your case yourself or through an attorney. If you are an entity, you may present your case through an attorney, or employee, but not through a non-employee third-party.

If your appeal is scheduled for a referee hearing, you are not required to attend the hearing. If you do not attend, the referee will make a recommendation to the Board based on your appeal form and any evidence presented by Assessment. You also are not required to attend the hearing before the Board when it considers the referee's recommendation.

If your appeal is scheduled for a Board hearing without a referee or panel recommendation, you must appear at the hearing or your appeal will be considered abandoned and denied.

At the beginning of the hearing, the Chairperson of the Board (or panel or referee) will read into the record a statement identifying you, your property, and the amount of the assessment under appeal. The Chairperson (or panel or referee) will also advise all parties of any time limitations for the hearing. If you are appealing the assessment of residential property and you are not presenting the testimony of an appraiser, you and Assessment will each be limited to fifteen (15) minutes to present your evidence. Requests for additional time must be made to the Chairperson (or panel or referee) before the hearing and may be granted in the Chairperson's (or panel's or referee's) discretion.

After being sworn, you may present testimony or evidence to support your claim that your assessment should be reduced. To prevail, you must convince the Board (or panel or referee) that the fair market value of your property, as of the date of the County's most recent reassessment base year, is less than the amount of your assessment. To do this, you may present evidence of sales of comparable properties. The assessed values of other properties, or the taxes paid by other property owners, are not acceptable as competent evidence of overvaluation. Do not cite the assessed values of other properties in your appeal.

If you wish to discuss sales of comparable properties in your area to demonstrate your claim of overvaluation, you must state specific parcel numbers, owners' names, and exact addresses in your appeal form. You may not testify concerning properties that were not included in your appeal form. You also may present evidence through qualified witnesses who have been identified in your appeal form. Written documentation such as an appraisal report will be considered only if the report has been previously provided to Assessment and the Board, the report has been prepared to establish a valuation as of the date of the most recent reassessment base year (or within one (1) year of that base year date), and, except at certain referee or panel hearings as described in more detail below, the person who prepared the document is present at the hearing and available for cross-examination. After you have completed your testimony and presented your evidence, the County's representative may cross-examine you on the evidence you presented. Then, the members of the Board may also ask you questions.

If your case is heard by a referee or panel, you may present an appraisal report at the hearing based solely on the comparable sales approach without the appraisal's author being present for cross-examination. The appraisal report, however, must meet all other requirements applicable to appraisals under these Rules, specifically those found in Article VI ("Appeal Form and Data Requirements"). Regardless of whether you choose not to attend the referee or panel hearing (and regardless of whether your appraisal report's author attends your hearing), Assessment may provide evidence, including expert testimony, that disputes your appraisal report.

You may request that Assessment disclose its witnesses and exhibits to you. Requests for the disclosure of exhibits must be made on the appeal form by checking the appropriate box. Any request for the disclosure of witnesses must be made not later than thirty (30) days before the first scheduled date of your appeal hearing.

Under State law, there is a presumption Assessment has correctly valued your property. **YOU HAVE THE BURDEN OF SHOWING THAT YOUR PROPERTY'S ASSESSMENT IS INCORRECT.** If you fail to meet that initial burden, then Assessment may not present any evidence in support of its assessment. Assessment may present evidence to justify its assessment if you have presented competent evidence of substantial overvaluation.

After you have presented your evidence and met your initial burden of showing substantial overvaluation, and if Assessment intends to present evidence, Assessment's representative will be sworn and present evidence in support of the assessment. After Assessment has presented its evidence, you may cross-examine Assessment's representative about their testimony. Thereafter, the Board may also question Assessment's representative.

You will be given a final opportunity to rebut Assessment's evidence. Should you offer any rebuttal evidence, Assessment will be allowed to cross-examine you on that evidence.

If your case is heard by a referee or panel, after both sides have fully presented their positions within the time limits established at the outset of the hearing, the referee or panel will consider all the evidence submitted and reach a decision regarding its recommendation to the Board. The recommendation will be mailed to you along with notice of the hearing date at which the Board will consider the recommendation and make a final decision. At the Board hearing, the parties will not be permitted to present additional evidence or arguments; it is important that you present all evidence and arguments at the panel or referee hearing. The Board will consider the recommendation and make a motion regarding the Board's decision and the Chairperson will take a roll call vote on the motion. The Chairperson will announce the Board's decision to you. Following the hearing, you will be sent a written statement of the Board's ruling.

If your case is not heard by a referee or panel, after both sides have fully presented their positions within the established time limit, a member of the Board will make a motion and the Chairperson will then take a roll call vote on the motion. The Chairperson will announce the Board's decision to you. Following the hearing, you will be sent a written statement of the Board's ruling.

The Board's decision may be appealed to the Superior Court within thirty (30) days of the postmark date of mailing the written notice of the decision. Superior Court appeals are based on the record presented before the Board. Ordinarily, no new evidence or testimony can be presented. The Board's decision will be upheld on appeal unless the Court is convinced that the Board acted "contrary to law, fraudulently, arbitrarily or capriciously."

The same procedures apply in a quarterly supplemental appeals. The only difference between an annual appeal and a supplemental appeal is the scope of the Board's review. In an annual appeal, you may challenge your entire assessment. In a supplemental appeal, you may challenge only the amount by which your assessment was increased during that quarter.

These procedures have been adopted to ensure the fairness of the appeal process. These instructions are merely a summary of State law applicable to assessment appeals and of the Rules of Procedure of the Board of Assessment Review of New Castle County. The Board's complete Rules are available for further review in the Assessment office and on the Board's website: <https://www.newcastlede.gov/390/Board-of-Assessment-Review>.

If you have any questions about your appeal, please contact Assessment by telephone at 302-395-5520, or by email at BOARAppeals@newcastlede.gov. Assessment is located at the New Castle County Government Center, 87 Reads Way, New Castle, DE 19720.

Appendix II

NEW CASTLE COUNTY BOARD OF ASSESSMENT REVIEW Summary of Appeal Hearing Record

Appeal/Docket Number _____ Parcel Number _____

Appellant(s) _____

Property Address _____

	<u>Land</u>	<u>Building</u>	<u>Total</u>
Assessed Value	_____	_____	_____
Appellant Request	_____	_____	_____
Revised Assessor Recommendation (if any)	_____	_____	_____

Summary of Panel or Referee Recommendation

- ☐ Appeal Denied
☐ Modification of Assessed
Value to:

<u>Land</u>	<u>Building</u>	<u>Total</u>
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Signature: _____

This Panel or Referee submits to the Board of Assessment Review the recommendation set forth above, based on the attached findings and reasons as well as on the attached Appeal Form and any applicable exhibits.

Name(s) of Panel Members
or Referee: _____

Date of Panel or Referee Hearing: _____

Board Action

- ☐ Adopted for the reasons set forth in the Panel's or Referee's recommendation
☐ Adopted for the reasons set forth in a forthcoming decision
☐ Not adopted; for reasons set forth in forthcoming decision, the Assessed Value shall be:

<u>Land</u>	<u>Building</u>	<u>Total</u>
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Date: _____

Signature: _____

Chairperson, Board of Assessment Review