

REVENUE DEPARTMENT[701]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.4 and 421.1A(4)“e,” the Property Assessment Appeal Board hereby amends Chapter 126, “Property Assessment Appeal Board,” Iowa Administrative Code.

These amendments are necessary to fully implement rules for the use of the Board’s electronic filing system and to address the applicability of changes to the Iowa Rules of Civil Procedure in cases before the Board.

Item 1 amends subrule 126.1(2) to adopt definitions relating to the Board’s electronic filing system.

Item 2 amends subrule 126.1(4) to address good cause for lengthening or shortening time in appeals before the Board.

Item 3 amends subrule 126.2(1) relating to the appeal and certification. The amendment clarifies that appeals are filed with the Board and how appeals may be filed, including through the Board’s electronic filing system.

Item 4 amends subrule 126.2(2) to clarify the form of the appeal and to require less documentation from the appealing party for the initial filing.

Item 5 amends subrule 126.2(4) to provide that a local board of review will receive notice of any appeal filed in its jurisdiction through the electronic filing system.

Item 6 amends subrule 126.2(5) to lessen the documentation required from the local board of review when it certifies its record. The new documentation for certification will include an answer, the taxpayer’s protest filed with the local board of review, the board of review’s final decision letter, and a notice of assessment, if any. The local board of review is no longer required to file its entire record with the Board.

Item 7 amends subrule 126.2(6) to address the docketing of appeals through the Board’s electronic filing system and maintenance of the Board’s records.

Item 8 amends subrule 126.2(8) to clarify that attorneys and designated representatives both shall file a notice of appearance in an appeal.

Item 9 amends rule 701—126.3(421,441) regarding applicability of the rule for nonelectronic service on parties filing with the Board. The amendments clarify procedures used when a party is not participating in an appeal using the electronic filing system.

Item 10 adopts new rule 701—126.4(421,441) regarding the Board’s electronic filing system. The rule sets forth procedures for registration, format and filing of documents using the system, service upon the parties, and filing by the Board in appeals using the electronic filing system.

Item 11 amends rule 701—126.5(421,441) to clarify how the Board issues orders and how parties may file motions and settlements.

Item 12 amends rule 701—126.6(421,441) regarding hearing scheduling and discovery plans. The amendments require that parties to the appeal confer and file a hearing scheduling and discovery plan, in certain cases, within 60 days after receiving the notice of appeal. The amendments also allow the Board to require a hearing scheduling and discovery plan in any case for which the Board deems it necessary. The rule also addresses prehearing conferences and failure to comply with the requirements.

Item 13 amends rule 701—126.7(421,441) to exempt appeals before the Board from amendments to Iowa Rules of Civil Procedure 1.500 and 1.507 regarding mandatory disclosure and discovery conference requirements. The rule also clarifies the applicability of other provisions of the Iowa Rules of Civil Procedure in appeals before the Board, addresses rebuttal evidence offered by the party, and requires the local board of review to submit the property record card or cost report as a labeled exhibit.

Item 14 amends subrule 126.8(2) to clarify that the Board shall serve notice of any hearing.

Item 15 amends subrule 126.8(3) to clarify that a waiver should not be e-mailed to the Board.

Item 16 amends subrule 126.8(4) to clarify what constitutes good cause for filing a continuance and to provide that the party requesting the continuance may be required to substantiate the request with additional materials.

Item 17 amends subrule 126.8(6) to clarify that a partnership, corporation, or association may be represented by any member, officer, director, or duly authorized agent. The amendment also notes that witnesses to a hearing may be sequestered during the hearing.

Item 18 amends subrule 126.10(1) to explain how and when the Board's final agency action is filed and to address the time period for appeal to the district court.

These amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any.

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 16, 2016, as **ARC 2464C**. No comments were received from the public. Technical changes have been made from the Notice to correct one reference and minor grammatical errors in Item 10.

The Property Assessment Appeal Board adopted these amendments on April 26, 2016.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 421.1A and 441.37A.

These amendments shall become effective June 29, 2016.

The following amendments are adopted.

ITEM 1. Amend subrule 126.1(2) as follows:

126.1(2) Definitions. For the purpose of these rules, the following definitions shall apply:

"Appellant" means the party filing the notice of appeal with the secretary of the property assessment appeal board.

"Board" means the property assessment appeal board as created by Iowa Code section 421.1A and governed by Iowa Code chapter 17A and section 441.37A.

"Department" means the Iowa department of revenue.

"Electronic filing" means the electronic transmission of a document to the electronic filing system together with the production and transmission of a notice of electronic filing.

"Electronic filing system" means the system established by the board for the filing of papers and service of the same to opposing parties.

"Electronic record" means a record, file, or document created, generated, sent, communicated, received, or stored by electronic means.

"Electronic service" means the electronic transmission of a notification to the registered users who are entitled to receive notice of the filing.

"Local board of review" means the board of review as defined by Iowa Code section 441.31.

"Nonelectronic filing" means a process by which a paper document or other nonelectronic item is filed with the board.

"Notice of electronic filing" means an e-mail notification generated by the electronic filing system when a document is electronically filed.

"Party" means each person or entity named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.

"PDF" means an electronic document filed in a portable document format which is readable by the free Adobe® Acrobat® Reader.

"Presiding officer" means the chairperson, member or members of the property assessment appeal board who preside over an appeal of proceedings before the property assessment appeal board.

"Public access terminal" means a computer located at the board's office where the public may view, print, and electronically file documents.

"Registered user" means an individual who can electronically file documents and electronically view and download files through the use of a username and password.

"Remote access" means a registered user's ability to electronically search, view, copy, or download electronic documents in an electronic record without the need to physically visit the board's office.

"Secretary" means the secretary for the property assessment appeal board.

“Signature” means a registered user’s username and password accompanied by one of the following:

1. “Digitized signature” means an embeddable image of a person’s handwritten signature;
2. “Electronic signature” means an electronic symbol (“/s/” or “/registered user’s name/”) executed or adopted by a person with the intent to sign; or
3. “Nonelectronic signature” means a handwritten signature applied to an original document.

ITEM 2. Amend subrule 126.1(4) as follows:

126.1(4) Time requirements. Time shall be computed as provided in Iowa Code section 4.1(34). For good cause, the board may extend or shorten the time to take any action, except as precluded by statute. Except for good cause stated in the record, before extending or shortening the time to take any action, the board shall afford all parties an opportunity to be heard or to file written arguments.

ITEM 3. Amend subrule 126.2(1) as follows:

126.2(1) Appeal and jurisdiction. The procedure for appeals and parameters for jurisdiction are as follows:

a. Jurisdiction is conferred upon the board by written notice of appeal given to the secretary filing an appeal with the board. The written notice of appeal shall include a petition setting forth the basis of the appeal and the relief sought. The written notice of appeal shall be filed with the secretary board within 20 calendar days after the date of adjournment of the local board of review or May 31, whichever is later. Appeals postmarked within this time period shall also be considered to have been timely filed. For an appeal filed through the electronic filing system to be timely, the appeal must be filed by 11:59 p.m. on the last day for filing.

b. Notice of The appeal may be filed through the board’s electronic filing system, delivered in person, mailed by first-class mail, or delivered to an established courier service for immediate delivery; or e-mailed to the board at paab@iowa.gov.

e. For an appeal filed by e-mail to be timely, it must be received by the board by 11:59 p.m. on the last day for filing as established within the time period set forth in paragraph 126.2(1)“a.”

ITEM 4. Amend subrule 126.2(2) as follows:

126.2(2) Form of appeal. The notice of appeal shall include:

- a. The appellant’s name, mailing address, e-mail address, and telephone number;
- b. The address of the property being appealed and its parcel number;
- c. A copy of the letter of disposition by the local board of review;
- d. c. A short and plain statement of the claim showing that the appellant is entitled to relief;
- e. d. The relief sought; and
- f. e. If the party is represented by an attorney or designated representative, the attorney or designated representative’s name, mailing address, e-mail address, and telephone number.

ITEM 5. Amend subrule 126.2(4) as follows:

126.2(4) Notice to local board of review. The secretary board shall mail serve, through the electronic filing system, a copy of the appellant’s written notice of appeal and petition appeal to the local board of review whose decision is being appealed. Notice to all affected taxing districts shall be deemed to have been given when written notice is provided to served on the local board of review.

ITEM 6. Amend subrule 126.2(5) as follows:

126.2(5) Certification Answer and certification by local board of review.

a. Initial certification.

(1) Within 21 days after notice of appeal is given, the local board of review shall certify to the board the original notice of assessment if any, the petition to the board of review, and a copy of the board of review’s letter of disposition.

(2) The local board of review shall also submit to the board in writing the name, address, telephone number, and e-mail address of the attorney representing the local board of review before the board. The local board of review may request additional time to certify a copy of its record to the board by submitting a request in writing or by e-mail to the board at paab@iowa.gov.

b. Full record certification prior to hearing.

~~(1) At least 21 calendar days prior to the contested case hearing, the local board of review shall certify to the board the complete property record card for the subject property, the protest hearing minutes of the local board of review kept pursuant to Iowa Code chapter 21, and any information provided to or considered by the local board of review as part of the protest.~~

~~(2) The local board of review shall also send a copy of the full record to the opposing party.~~

Using the form provided by the board or a conforming document, the local board of review's attorney or representative shall file an answer and certification within 21 days after service of the notice of appeal. The answer and certification shall include a statement setting forth the local board of review's position on the appeal and include the following attachments:

1. The taxpayer's protest to the local board of review;
2. The final decision of the local board of review; and
3. The notice of assessment, if any.

ITEM 7. Amend subrule 126.2(6) as follows:

126.2(6) Docketing. Appeals shall be assigned consecutive docket numbers. ~~Records~~ Electronic records consisting of the case name and the corresponding docket number assigned to the case shall be maintained by the ~~secretary~~ board, as well as all filings made in the appeal. ~~The records of each case shall also include each action and each act done, with the proper dates, as follows:~~

- ~~a. The title of the appeal including jurisdiction and parcel identification number;~~
- ~~b. Brief statement of the grounds for the appeal and the relief sought;~~
- ~~c. Postmarked date of the local board of review's letter of disposition;~~
- ~~d. The manner and date/time of service of notice of appeal;~~
- ~~e. Date of notice of hearing;~~
- ~~f. Date of hearing; and~~
- ~~g. The decision by the board, or other disposition of the case, and date thereof.~~

ITEM 8. Amend subrule 126.2(8) as follows:

126.2(8) Appearances. Any party may appear and be heard on its own behalf, or by its attorney or designated representative. ~~A designated representative shall file a notice of appearance with the board for each case in which the representative appears for a party. Filing a motion or pleadings on behalf of a party shall be equivalent to filing a notice of appearance. Attorneys and designated representatives both shall file a notice of appearance with the board for each appeal.~~ A designated representative who is not an attorney shall also file a power of attorney. When acting as a designated representative on behalf of a party, the designated representative acknowledges that the representative has read and will abide by the board's rules.

ITEM 9. Amend rule 701—126.3(421,441) as follows:

701—126.3(421,441) Service Nonelectronic service on parties and filing with the board.

126.3(1) Applicability. This rule applies to all nonelectronic filings made with the board by parties not voluntarily using the electronic filing system or in all other cases for which the board has not ordered the conversion of the case to an electronic file. Electronic filing and service of documents using the board's electronic filing system is governed by rule 701—126.4(421,441).

~~**126.3(1) 126.3(2) Service and filing of papers paper documents.**~~ After the ~~notice of appeal and petition have~~ has been filed, all motions, pleadings, briefs, and other papers shall be served upon each of the parties of record contemporaneously with their filing with the board.

~~a. Service on a party how and when made parties to the appeal.~~ The parties may agree to exchange the certified record, motions, pleadings, briefs, exhibits, and any other papers with each other electronically or via any other means. All documents are deemed served at the time they are delivered in person to the opposing party; delivered to an established courier service for immediate delivery; or mailed by first-class mail, so long as there is proof of mailing; ~~or sent electronically if the parties have agreed to service by such means.~~

~~b. Filing with the board when made.~~ Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the board; delivered to an established courier service for

immediate delivery; or mailed by first-class mail, so long as there is proof of mailing; or sent by e-mail as permitted by this chapter. A registered user of the board's electronic filing system may electronically file documents with the board pursuant to rule 701—126.4(421,441).

~~(1) For most filings in a docket made with the board, only an original is required.~~

~~(2) For exhibits and other documents to be introduced at hearing, three copies are required. For a nonoral submission, only one copy is required.~~

~~(3) The board or presiding officer may request additional copies.~~

c. *Proof of mailing.* Proof of mailing includes: a legible United States Postal Service postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Property Assessment Appeal Board and to the names and addresses of the parties listed below by depositing the same in a (United States post office mailbox with correct postage properly affixed).

(Date)

(Signature)

~~126.3(2) 126.3(3) Reserved.~~ *Board-generated documents.* The board will mail copies of all board-generated documents to any party not served by the board's electronic filing system.

~~126.3(4) Conversion of filed paper documents.~~ The board will convert all filed paper documents to an electronic format viewable to registered users of the electronic filing system.

~~126.3(5) Form of paper documents.~~ Each document delivered to the board must be printed on only one side and have no tabs, staples, or permanent clips. The document may be organized with paperclips, clamps, or another type of temporary fastener or be contained in a file folder.

~~126.3(6) Return of copies by mail.~~ If a party requests that a document filed in paper form be returned by mail, the party must deliver to the board a self-addressed envelope, with proper postage, large enough to accommodate the returned document.

ITEM 10. Adopt the following new rule 701—126.4(421,441):

701—126.4(421,441) Electronic filing system.

126.4(1) Electronic filing and applicability.

a. *Electronic filing.* The board will maintain an electronic filing system, which shall be the preferred method for filing documents with the board.

b. *Applicability.* This rule applies to electronic filing and service of documents using the board's electronic filing system. Nonelectronic filing and service are governed by rule 701—126.3(421,441).

(1) The board may order the conversion of any case to an electronic file. Upon such an order, all future filings must be made using the board's electronic filing system in compliance with this rule, unless a filing is subject to the exception in paragraph 126.4(1) "c."

(2) In all other cases, a party or parties to a proceeding may voluntarily choose to use the electronic filing system in compliance with this rule.

c. *Exceptions.* Any item that is not capable of electronic filing shall be filed in a nonelectronic format pursuant to rule 701—126.3(421,441).

126.4(2) Registration.

a. *Registration required.* Every individual who is filing documents or viewing or downloading documents filed in an appeal must register as a registered user of the electronic filing system.

b. *How to register.* To register, an individual must complete the registration process online at <https://efile-paab.iowa.gov/>, consent to the user agreement, and obtain a username and password for the electronic filing system.

c. *Changing passwords.* Once registered, the user may change the user's password. If the registered user believes the security of an existing password has been compromised, the registered user must change the password immediately. The board may require password changes periodically.

d. *Changes in a registered user's contact information.* If a registered user's e-mail address, mailing address, or telephone number changes, the registered user must promptly make the necessary

changes to the registered user's information contained in the electronic filing system. The registered user shall promptly give notice of changes in contact information to any nonregistered party in every active proceeding in which the registered user is a party.

e. Duties of a registered user. Each registered user shall ensure that the user's e-mail account information is current, that the account is monitored regularly, and that e-mail notices sent to the account are timely opened.

f. Canceling registration. Withdrawal from participation in the electronic filing system cancels the registered user's profile but does not authorize nonelectronic filing of documents and is not a withdrawal from a proceeding.

g. Use of username and password. A registered user is responsible for all documents filed with the registered user's username and password unless proven by clear and convincing evidence that the registered user did not make or authorize the filing.

h. Username and password security. If a username or password is lost, misappropriated, misused, or compromised, the registered user of that username and password shall notify the board promptly.

i. Denial of access. The board may refuse to allow an individual to electronically file or download information in the electronic filing system due to misuse, fraud or other good cause.

126.4(3) Signatures.

a. Registered user. A username and password accompanied by a digitized, electronic, or nonelectronic signature serve as the registered user's signature on all electronically filed documents.

b. Documents requiring oaths, affirmations or verifications. Any document filed requiring a signature under oath or affirmation or with verification may be signed electronically or nonelectronically but shall be filed electronically.

c. Format. Any filing requiring a signature must be signed, with either a nonelectronic signature (actual signature scanned), an electronic signature (the symbol "/s/" or "/registered user's name/"), or a digitized signature (an inserted image of a handwritten signature).

d. Multiple signatures. By filing a document containing multiple signatures, the registered user confirms that the content of the document is acceptable to all persons signing the document and that all such persons consent to having their signatures appear on the document.

126.4(4) Format and redaction of electronic documents. All documents must be converted to a PDF format before they are filed in the electronic filing system. Prior to filing any document, the registered user shall ensure that the document is certified as confidential or that the confidential information is omitted or redacted.

126.4(5) Exhibits and other attachments. Any attachments to a filing, such as an exhibit, shall be uploaded and electronically attached to the filing. Each exhibit shall be filed as a separate PDF. Exhibits shall be labeled as required by paragraph 126.7(3) "d."

126.4(6) Filing and service using electronic filing.

a. What constitutes filing. The electronic transmission of a document to the electronic filing system consistent with the procedures specified in these rules, together with the production and transmission of a notice of electronic filing, constitutes the filing of the document.

b. Electronic file stamp. Electronic documents are officially filed when affixed with an electronic file stamp. Filings so endorsed shall have the same force and effect as documents time-stamped in a nonelectronic manner.

c. E-mail or fax. The e-mailing or faxing of a document to the board will not generate a notice of electronic filing and does not constitute electronic filing of the document unless otherwise ordered by the board.

d. Public access terminal. The board shall maintain a public access terminal at the board's office.

e. Service of filings. When a document is electronically filed, the electronic filing system will produce and transmit a notice of electronic filing to all parties to the appeal who are registered users. The notice of electronic filing shall constitute service of the filing on registered users. No other service is required on registered users unless ordered by the board. The filing party is responsible for ensuring service, pursuant to paragraph 126.3(2) "a," on any party that is not a registered user. Notices of

electronic filing will continue to be sent to registered users appearing or intervening in a proceeding until the users have filed a withdrawal of appearance.

f. Proof of service of nonelectronic filings. Parties filing a document nonelectronically pursuant to paragraph 126.3(2) “c” and rule 701—126.3(421,441) shall electronically file a notice of nonelectronic filing along with proof of service.

g. Electronic filing and service of board-generated documents. All board-generated documents issued in an appeal governed by this chapter shall be electronically filed and served. The board shall only mail paper copies of documents as provided in subrule 126.3(3).

126.4(7) Filing by the board on behalf of a party.

a. Where the circumstances and administrative efficiency requires, board staff may file a motion on behalf of a party to an appeal pursuant to this subrule.

b. When a party to an appeal contacts board staff via telephone or other means and indicates the party’s desire to file a motion or request specified in paragraph 126.4(7) “c,” board staff may file the request or motion in the electronic filing system on behalf of the party. The request or motion shall be consistent with the instructions and information provided by the party and shall only be filed with the permission of the party. Board staff shall not file any motions or requests on behalf of a party if any opposing party requires nonelectronic service under subrule 126.3(2).

c. Only the following motions or requests may be filed by board staff on behalf of a party:

- (1) Motion for telephone hearing;
- (2) Motion to appear in person at hearing;
- (3) Motion for hearing;
- (4) Motion for continuance;
- (5) Motion to withdraw appeal.

d. Upon filing of the motion or request, board staff will provide a courtesy copy of the filing to the party.

ITEM 11. Amend rule 701—126.5(421,441) as follows:

701—126.5(421,441) Motions and settlements.

126.5(1) Authority of board to issue procedural orders. The board may issue preliminary orders regarding procedural matters. ~~The secretary shall mail copies of all procedural orders to the parties.~~

126.5(2) Motions. No technical form for motions is required. All prehearing motions shall be in writing, shall be filed with the ~~secretary~~ board and shall contain the reasons and grounds supporting the motion. The board shall act upon such motions as justice may require. Motions based on matters which do not appear of record shall be supported by affidavit. Any party may file a written response to a motion no later than 10 days from the date the motion is filed, unless the time period is extended or shortened by the board or presiding officer. The presiding officer may schedule oral argument on any motion.

a. and b. No change.

c. Motions to withdraw. An appellant may withdraw the appeal prior to the hearing. Such a withdrawal of an appeal must be in writing ~~or by e-mail to paab@iowa.gov~~ and signed by the appellant or the appellant’s designated representative. Unless otherwise provided, withdrawal shall be with prejudice and the appellant shall not be able to refile the appeal. Within 20 days of the board’s granting of a withdrawal of appeal, the appellant may make a motion to reopen the file and rescind the withdrawal based upon fraud, duress, undue influence, or mutual mistake.

126.5(3) Settlements. Parties to a case may propose to settle all or some of the issues in the case at any time prior to the issuance of a final decision. A settlement of an appeal shall be jointly signed by the parties, or their designated representatives, and filed ~~in writing or by an electronic copy e-mailed to paab@iowa.gov~~ with the board. The board will not approve settlements unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest. Board adoption of a settlement constitutes the final decision of the board on issues addressed in the settlement.

ITEM 12. Amend rule 701—126.6(421,441) as follows:

701—126.6(421,441) Hearing scheduling and discovery plan.

126.6(1) *When required.* For appeals involving properties classified ~~commercial or industrial~~ commercial, industrial, or multiresidential and assessed at \$2 million or more, ~~a scheduling order shall be sent to the parties to set dates for discovery, designation of witnesses, filing of motions, exchange of evidence, and a contested case hearing~~ the parties shall confer and file a hearing scheduling and discovery plan within 60 days of the notice provided in subrule 126.2(4). In any other appeal, the parties may jointly ~~enter a scheduling order~~ file a hearing scheduling and discovery plan or the board may, on its own motion, ~~issue a scheduling order~~ require parties to file a hearing scheduling and discovery plan. The dates established in a ~~scheduling order~~ hearing scheduling and discovery plan under this rule shall supersede any dates set forth in any other rule in this chapter.

126.6(2) *Prehearing conference.* A party may request a prehearing conference to resolve ~~scheduling~~ issues any disputed issue pertaining to the hearing scheduling and discovery plan.

126.6(3) *Modification.* The parties may jointly agree to modify ~~a scheduling order~~ the plan. If one party seeks to modify ~~a scheduling order~~ the plan, the party must show good cause for the modification.

126.6(4) *Failure to comply.* A party that fails to comply with a ~~scheduling order~~ plan shall be required to show good cause for failing to comply ~~with the order~~ and that the other party is not substantially prejudiced. Failing to comply with a ~~scheduling order~~ plan may result in sanctions including, but not limited to, the exclusion of evidence or dismissal of the appeal.

ITEM 13. Amend rule 701—126.7(421,441) as follows:

701—126.7(421,441) Discovery and evidence.

126.7(1) *Discovery procedure.* ~~Discovery procedures applicable in civil actions under the Iowa Rules of Civil Procedure are available to parties in cases before the board. Unless lengthened or shortened by these rules, the board or presiding officer, time periods for compliance with discovery shall be as provided in the Iowa Rules of Civil Procedure. The scope of discovery described in Iowa Rule of Civil Procedure 1.503 shall apply to contested case proceedings. The following discovery procedures available in the Iowa Rules of Civil Procedure are available to the parties in a contested case proceeding: depositions upon oral examination or written questions; written interrogatories; production of documents, electronically stored information, and things; entry upon land for inspection and other purposes; and requests for admission. The time frames for discovery in specific Iowa Rules of Civil Procedure govern those specific procedures, unless lengthened or shortened by the board.~~

a. Iowa Rules of Civil Procedure 1.701 through 1.717 regarding depositions shall apply to any depositions taken in an appeal. Any party taking a deposition in an appeal shall be responsible for any deposition costs. Deposition costs include, but are not limited to, reimbursement for mileage of the deponent, costs of a certified shorthand reporter, and expert witness fees, as applicable.

b. Iowa Rule of Civil Procedure 1.509 shall apply to any interrogatories propounded in an appeal.

c. Iowa Rule of Civil Procedure 1.512 shall apply to any requests for production of documents, electronically stored information, and things; and entry upon land for inspection and other purposes in an appeal.

d. Iowa Rule of Civil Procedure 1.510 shall apply to any requests for admission in an appeal. Iowa Rule of Civil Procedure 1.511 regarding the effect of an admission shall apply in an appeal.

e. The mandatory disclosure and discovery conference requirements in Iowa Rules of Civil Procedure 1.500 and 1.507 do not apply to appeals before the board.

f. Iowa Rule of Civil Procedure 1.508 shall apply to discovery of any experts identified by a party to an appeal.

g. Discovery shall be served on all parties to the appeal, but shall not be filed with the board. Parties shall file a notice with the board when a notice of deposition or a discovery request or response is served on another party. The notice filed with the board shall include the date, the manner of service, and the names and addresses of the persons served. Other discovery materials shall not be filed unless ordered by the presiding officer.

126.7(2) No change.

126.7(3) Evidence.

a. to c. No change.

d. Exhibits, exhibit and witness lists, and briefs. The party seeking admission of an exhibit must provide an opposing party with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents to be used as evidence, exhibit lists, and a list of witnesses intended to be called at hearing shall be served on the opposing party at least 21 calendar days prior to the hearing, unless the time period is extended or shortened by the board or presiding officer or the parties have entered a scheduling order filed a hearing scheduling and discovery plan under rule 701—126.6(421,441). Rebuttal evidence need not be exchanged or served on the opposing party prior to the hearing. All exhibits and briefs admitted into evidence shall be appropriately marked and be made part of the record. The appellant shall mark ~~exhibits~~ each exhibit with consecutive numbers. The appellee shall mark ~~exhibits~~ each exhibit with consecutive letters. The local board of review's Exhibit A shall be the subject property's property record card or cost report.

e. and f. No change.

126.7(4) Subpoenas.

a. Issuance of subpoena for witness.

(1) ~~An agency~~ A subpoena shall be issued to a party on request. The request shall be in writing and include the name, address, and telephone number of the requesting party. In absence of good cause for permitting later action, a request for subpoena must be received at least ~~40~~ 14 days before the scheduled hearing.

(2) Except to the extent otherwise provided by law, parties are responsible for service of their own subpoenas and payment of witness fees and mileage expenses.

b. Issuance of subpoena for production of documents.

(1) ~~An agency~~ A subpoena shall be issued to a party on request. The request shall be in writing and include the name, address, and telephone number of the requesting party. In absence of good cause for permitting later action, a request for subpoena must be received at least ~~20~~ 14 days before the scheduled hearing.

(2) Except to the extent otherwise provided by law, parties are responsible for service of their own subpoenas.

c. Motion to quash or modify. Upon motion, the board or presiding officer may quash or modify a subpoena for any lawful reason in accordance with the Iowa Rules of Civil Procedure.

ITEM 14. Amend subrule 126.8(2) as follows:

126.8(2) Notice of hearing. Unless otherwise designated by the board, the hearing shall be held in the hearing room of the board. All hearings are open to the public. If a hearing is requested, the ~~secretary~~ board shall ~~mail~~ serve a notice of hearing to the parties at least 30 days prior to the hearing. The parties may jointly waive the 30-day notice by following the provisions of subrule 126.8(3). The notice of hearing shall contain the following information:

- a.* A statement of the date, time, and place of the hearing;
- b.* A statement of legal authority and jurisdiction under which the hearing is to be held;
- c.* A reference to the particular sections of the statutes and rules involved;
- d.* That the parties may appear and present oral arguments;
- e.* That the parties may submit evidence and briefs;
- f.* That the hearing will be electronically recorded by the board;
- g.* That a party may obtain a certified court reporter for the hearing at the party's own expense;
- h.* That audiovisual aids and equipment are to be provided by the party intending to use them;
- i.* A statement that, upon submission of the appeal, the board will take the matter under advisement. ~~A letter of disposition~~ An order will be ~~mailed~~ issued to the parties; and
- j.* A compliance notice required by the Americans with Disabilities Act (ADA).

ITEM 15. Amend subrule 126.8(3) as follows:

126.8(3) Waiver of 30-day notice. The parties to the appeal may jointly waive the 30-day written notice requirement for a hearing. The waiver must be ~~in writing or by e-mail to paab@iowa.gov and~~ signed by the parties or their designated representatives and filed with the board. By waiving notice, the parties acknowledge they are ready to proceed with the hearing. The parties will be contacted when a hearing date is available but notice for said date may be less than 30 days. The parties will have the right to accept or reject the hearing date.

ITEM 16. Amend subrule 126.8(4) as follows:

126.8(4) Continuance. Any hearing may be continued for “good cause.” “Good cause” is equated to any cause not growing out of the fault or negligence of the movant, which satisfies the board that substantial justice will more nearly be obtained if the case is continued. ~~Requests for continuance prior to the hearing~~ A motion to continue the hearing shall be in writing or by e-mail to paab@iowa.gov and promptly filed with the secretary of the board and, except in exigent or other unusual circumstances, filed not later than 7 days before the hearing or immediately upon “the cause” becoming known. The motion must contain sufficient specific information or be supported by sufficient evidentiary materials or both to allow the board to determine whether there is “good cause” and whether the alleged cause grows out of the fault or negligence of the moving party. An emergency oral continuance may be obtained from the board or presiding officer based on “good cause” and at the discretion of the board or presiding officer. In determining whether to grant a continuance, the board or presiding officer may consider:

- a. Prior continuances;
- b. The interests of all parties;
- c. The likelihood of informal settlement;
- d. The existence of an emergency;
- e. Any objection;
- f. Any applicable time requirements;
- g. The existence of a conflict in the schedules of counsel, parties, or witnesses;
- h. The timeliness of the request; and
- i. Other relevant factors, including the existence of a ~~scheduling order~~ hearing scheduling and discovery plan.

ITEM 17. Amend subrule 126.8(6) as follows:

126.8(6) Hearing procedures. A party to the appeal may request a hearing, or the appeal may proceed without a hearing. The local board of review may be present and participate at such hearing. Hearings may be conducted by the board or by one or more of its members.

- a. No change.
- b. *Representation.* Parties to the appeal have the right to participate or to be represented in all hearings. Any party may be represented by an attorney or by a designated representative. A partnership, corporation, or association may be represented by any member, officer, director, or duly authorized agent.
- c. and d. No change.
- e. *Conduct of the hearing.* The presiding officer shall conduct the hearing in the following manner:
 - (1) to (3) No change.
 - (4) Each witness shall be sworn or affirmed by the presiding officer and shall be subject to examination and cross-examination. Witnesses may be sequestered during the hearing. The presiding officer may limit questioning in a manner consistent with law; and
 - (5) No change.

ITEM 18. Amend subrule 126.10(1) as follows:

126.10(1) Appeals of board decisions. A party may seek judicial review of a decision rendered by the board by filing a written notice of appeal with the clerk of the district court where the property is located within 20 days after the ~~letter of disposition of the appeal by the board is mailed~~ board’s final agency action is postmarked to the appellant or the final agency action is filed in the board’s electronic filing system. Iowa Code chapter 17A applies to judicial review of the board’s final decision. The filing

of the petition does not itself stay execution or enforcement of the board's final decision. The board may grant a stay on appropriate terms or other temporary remedies during the pendency of judicial review.

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