

# A Guide to Texas Post-Administrative Appeals and Lawsuits

*O'Connor discusses the process for Texas post-administrative appeals and lawsuits.*

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Previously, O'Connor discussed how to prepare evidence for a property tax appeal and what to expect at a hearing with the appraisal review board (ARB). This should cover the vast majority of property tax appeals, as property owners can usually get a reduction at informal or formal levels. But what happens if the protest fails at these levels, or if the owner wins but doesn't get an insufficient settlement? The final step that the owner has is legal action against the local county appraisal district (CAD). These are in the form of lawsuits or other types of arbitration known as post-administrative appeals.

These steps are far more complex than the other ones, as they require not only a legal team, but expert witnesses, researchers, and usually an independent appraisal. And those are only the minimum requirements. Even if the owner has done well on their own so far, now is the time to get a property tax consultant. Even if the owner has gone all the way on their own, there is still time to find a partner like O'Connor.

## Why Use Post-Administrative Appeals?

These legal actions are exclusively for high-dollar properties. This typically means commercial or industrial properties, though it can also mean large and expensive single-family homes as well. The purpose of these legal actions is to achieve elite cost reduction for the business, an amount that is worth the time, cost, and effort.

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This stage of the process typically follows either a rejection by the ARB or a partial agreement resulting in a settlement considered insufficient. A partial success indicates a solid foundation has been established. A complete rejection; however, signals the need for additional evidence to support the legal case ahead. Regardless of the outcome that led to this point, assembling a strong and capable team is essential for success.

### Assembling a Team

No matter how well the owner did on their own in the lower appeal process, the owner must now turn to a team of experts to help. This is a legal matter, and the owner does not want to go pro se in this situation. The owner will need a tax or litigation attorney for court representation or arbitration to start. It is through this attorney that the owner will learn how to build the case further. For some types of lawsuits, such as binding arbitration, this might be the only step they need to take.

If the owner wants to go for a judicial appeal; however, they will need to treat it more like a civil or criminal case. This means that they will need expert witnesses to testify on their behalf. They will need researchers to put together evidence to bring to court. Since most judicial appeals are predicated on overvaluation, they will also need a professional appraiser to find the true value of their property. Putting together a team can certainly feel like a full-time job, but getting the right people is a necessity.

### Binding Arbitration

Traditionally, post-administrative appeals have only been for businesses, apartment buildings, industrial properties, and large swaths of land for farms or ranches. Due to the spiraling cost of homes, single-family residences are becoming more common in these lawsuits. Binding arbitration is intended for personal property worth less than \$5 million and is tailor-made for single-family homes. In fact, the \$5 million cap can only be overridden by a property having a homestead exemption. Binding arbitration was created to be an alternative to judicial appeals for those that did not have the budget to pursue that route.

Property owners will be required to pay a deposit to the arbiter that is deciding the case. The owner will get this money back if they are successful, but it will be forfeited if they are found to be lacking. This amount can range from \$400 to \$1,500, depending on the size of the case. Either side of the post-administrative appeal may settle before the case goes forward, and this is often a better deal for all involved. If neither side blinks, then the case is heard.

The arbiter is either an attorney or another licensed specialist when it comes to properties and real estate. It is they who will ponder the evidence presented by both sides before rendering judgement. The arbiter will determine if the value of the property is closer to the value the owner claimed or that of the CAD. Once they rule, the decision is final, meaning there are no appeals left to use, and the CAD cannot pursue further action as well.

## State Office of Administrative Hearings

The State Office of Administrative Hearings (SOAH) is the newest of the post-administrative appeals, and also the rarest and most esoteric. First created just over a decade ago, SOAH cases are reserved for single-family homes worth over \$1 million. This is meant to address the growing reality of staggering housing prices in Texas, especially those of a luxury nature. Intended for mansions and other such estates, the SOAH is seldom used. There were only 96 SOAH appeals in 2023, with most counties never seeing a single one.

SOAH hearings are similar to binding arbitration, albeit with an administrative judge instead of an attorney or expert. It has some trial-like qualities as well. While the owner could participate in a hearing without an attorney, one is highly recommended. Due to the rarity of this type of case, finding an attorney experienced in them can be an adventure on its own. Like binding arbitration, the owner will have to make a deposit.

## Judicial Appeals

Judicial appeals are the Cadillac of post-administrative appeals. These are actual lawsuits that appear before the district court. Originally, they were the only type of appeal left after the ARB but were found too costly and involved for most taxpayers, leading to the creation of binding arbitration and later the SOAH. Judicial appeals are intended for commercial properties, industrial facilities, apartment buildings, utility institutions, and massive ranches. This is where millions or even thousands of millions of dollars hang in the balance.

While the owner could get by with just an attorney or a small team for other post-administrative options, judicial appeals require the entire team mentioned above. This is a costly endeavor, and it could take years to appear before a court or judge. When the docket is finally cleared and both sides appear before the court, it is then that the legal team and experts pay off.

## Judicial Appeal Settlements

Except, these court dates rarely come. Instead, cases are usually settled out of court, and almost always in favor of the plaintiff. Only one in over every hundred judicial appeals actually go to trial. In 2023, 92.29% of all judicial appeals were settled in favor of the taxpayer. While this is certainly anti-climactic, it is also a boon for any plaintiff that is finally seeing all their hard work pay off.

This makes judicial appeals a virtual slam dunk for protestors, but it carries with it an enormous cost of entry. This is, cynically, almost certainly the point. Very few taxpayers can pay for a legal team, organize a judicial appeal, and wait years to see the results. This is something typically held back for the biggest of property owners, meaning the barrier for entry is so high that only a select few have access to it. This is why binding arbitration and the SOAH were created. But it

also demonstrates that a well-prepared taxpayer can steamroll their CAD if they have the resources and will to do so.

## Post-Administrative Appeals in a Nutshell

All three types of post-administrative appeals are certainly worth the effort, though each has costs and hoops that must be jumped through. When exposed to the light, it is clear that the inflated prices imposed by CADs cannot stand on their own. This should be a motivator for both lesser appeals and lawsuits. It is clear that even the largest of taxpayers are leaving money on the table if they do not explore all of their options. Post-administrative appeals are certainly not for everyone, but they do give a vital remedy for those with the time and resources to do so.

### About O'Connor:

O'Connor is one of the largest property tax consulting firms, representing 185,000 clients in 49 states and Canada, handling about 295,000 protests in 2024, with residential property tax reduction services in Texas, Illinois, Georgia, and New York. O'Connor's possesses the resources and market expertise in the areas of property tax, cost segregation, commercial and residential real estate appraisals. The firm was founded in 1974 and employs a team of 1,000 worldwide. O'Connor's core focus is enriching the lives of property owners through cost effective tax reduction.

Property owners interested in assistance appealing their assessment can enroll in O'Connor's Property Tax Protection Program™. There is no upfront fee, or any fee unless we reduce your property taxes, and easy online enrollment only takes 2 to 3 minutes.

Patrick O'Connor, President

O'Connor

+ + +1 713-375-4128

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