Lake County Board of Review

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# 2011 Rules of the Lake County Board of Review

The Lake County Board of Review (Board) consists of three members, together with additional alternate members, appointed by the Chairman of the Lake County Board (35 ILCS 200/6-5 & 6-25). Any Member or Alternate Member of the Board may conduct a hearing. **The Board has the authority to confirm, reduce or increase any assessment as appears just.** The Board determines the correct assessment, prior to state equalization, of any parcel of real property which is the subject of an appeal, according to the law, based on standards of uniformity, market value, correctness of facts, evidence, exhibits and briefs submitted to or elicited by the Board from an appellant, assessor and/or other interested parties.

**Prior to filing an appeal with the Board, it is strongly recommended that a taxpayer discuss his/her assessment with the Township Assessor's Office.** Many times the reason for the assessment can be made clear and the need for filing an appeal eliminated. If, after talking with the Township Assessor's Office, a taxpayer still wishes to pursue an appeal, he/she should familiarize him/herself with the 2011 Rules of the Board. **Note: The time period for filing an appeal is not extended to accommodate discussions between taxpayers and assessors.**

The Board is required to make and publish reasonable rules "for the guidance of persons doing business with the Board and for the orderly dispatch of business." (35 ILCS 200/9-5) These rules, for the 2011 session (covering the 2011 tax year), are as follows.

## I. Administrative Rules

**A.** ***Convening the Board.*** The Board convenes on or before the First Monday of June and recesses from day to day as may be necessary.

**B.** ***Severability.*** In the event any section, provision or term of this policy is determined by a court or other authority of competent jurisdiction to be invalid, that determination shall not affect the remaining sections nor provisions, which shall continue in full force and effect. For this purpose, the provisions of this policy are severable.

**C.** ***Amendments.*** The rules may be amended from time to time; said amendments are effective upon their being conspicuously posted and prominently displayed.

**D.** ***Failure to Follow Board Rules.*** Failure to follow any rules, in and of itself, may be grounds for the denial of any change in assessment.

**E.** ***Authority of the Board.*** In connection with any hearing before the Board, the Board has full authority to:

1. Conduct and control the procedure of the hearing.
2. Admit or exclude testimony or other evidence into the record.

3. Administer oaths and affirmations and examine all persons appearing at the hearing to testify or to offer evidence.
4. Require the production of any book, record, paper or document at any stage of the appeal process or at the hearing which is the foundation for any evidence or testimony presented in the appeal. The Board also may request a property inspection to clarify parcel characteristics and/or condition of a subject property. Failure to produce a requested book, record, paper or document or failure to allow a property inspection within the prescribed time frame set by the Board may result in the confirmation of the assessment.
5. Terminate a hearing and require an appellant, appellant's representative or witness to leave the proceeding, when an appellant or appellant's agent, attorney or witness engages in threatening, disruptive, vulgar, abusive or obscene conduct or language that delays or protracts a proceeding or refuses to leave a hearing room after a decision has been rendered.

**F.** ***Freedom of Information Act.*** The Board is a public body and is subject to the Freedom of Information Act as defined in Illinois Law (5 ILCS 140/2). The following information is provided in accordance with the Act.

1. The Board is responsible for hearing appeals, corrections and requests for Certificates of Error on property assessments from the County's eighteen townships, acting on these applications, reviewing and making recommendations on exempt property applications and representing the interest of Lake County before the Illinois Property Tax Appeal Board.
2. The Board's office is located in the Lake County Administration Building, 18 North County Street, 7th Floor, Waukegan, Illinois 60085.

**G.** ***Open Meetings Act.*** Hearings held by the Board are open to the public, subject to the exceptions cited by the Open Meetings Act (5 ILCS 120/1.02).

1. Audio or video recording is permitted by any person. However, recording cannot disrupt a hearing nor are participants required to identify themselves to facilitate a recording. The Clerk of the Board must be informed in advance that an audio or video recording of a hearing will be made.
2. The Board does not provide transcripts of a hearing. If any party desires a transcript of a hearing, a court reporter must be retained at the expense of that party.
3. The Board's assigned hearing room has a limited capacity. If any party anticipates the attendance of more than five witnesses or other persons at a hearing, that party must immediately contact the Clerk of the Board, who will attempt to make arrangements for a more suitable venue.

**H.** ***Clerk of the Board of Review.*** The administrative functions of the Board are discharged by the Lake County Chief County Assessment Officer, who shall act as the Clerk of the Board.

## II. Filing An Appeal

Certain criteria must be met in order to file an appeal and have the case scheduled for a hearing in front of the Board of Review. The criteria are as follows.

**A.** ***Standing.*** Only a taxpayer or owner of property (or agent/attorney thereof) dissatisfied with a property's assessment or a taxing body that has a tax revenue interest in the decision of the Board on an assessment made by any local assessment officer may file an appeal with the Board. Any non-owner (such as an agent or attorney) filing an appeal on behalf of an owner must have authorization by the owner of record at the time of filing. Authorization of an agent/attorney is indicated by signatures on the appeal form or on an authorization form which must be submitted with the appeal form at the time of application.

Appeal forms and authorization forms are available from the website, www.lakecountyil.gov/boardofreview.

1. ***Contiguous Parcels.*** When filing an appeal, all contiguous parcels included in that property must be filed on, even if a reduction is sought on only one parcel. For purposes of this rule, contiguous parcels include all parcels that are physically contiguous, have a unity of use and are owned by the same owner(s) of record, including beneficial ownership.

***B. Appeal Forms.*** **The Board requires that all parties to an appeal utilize the prescribed forms and comparison grids of the Lake County Board of Review.** These forms are available on the County's website, www.lakecountyil.gov/boardofreview, by clicking on Appeal Forms. The Lake County Comparable Grid and the ability to electronically populate comparisons of your choosing with Lake County's validated data base also are available on the website, www.lakecountyil.gov/boardofreview, by clicking on Comparable Search Tool. Additionally, appeal forms are available at all Township Assessor Offices and the Chief County Assessment Office. Note that neither the Board nor its Clerk will send forms to appellants or their representatives by any method other than first class mail.

***C. Required Information.*** **All the information on the appeal form is required, including requested reductions in assessed value and indicated market value.**

1. ***Requested Reduction of $100,000 or more.*** Pursuant to 35 ILCS 200/16-55, if an appellant is requesting a reduction in assessed valuation of $100,000 or more, the Board must notify each respective taxing district. The Board has the authority to restrict reductions to a value under $100,000, when taxing districts have not been appropriately notified. The Board, therefore, requires that appellants supply their requested assessment total in the appropriate space on the appeal form.

**D.** ***Evidence.*** **Evidence must be submitted with the appeal form in order for a case to be set for hearing. The Board requires that the original appeal form and evidence, plus three (3) copies of the form and evidence, be submitted at the time of application.** The Board forwards a copy of each appeal and accompanying evidence to the appropriate township assessor. Additional evidence submitted at the hearing by any party (appellant, assessor or intervener) may be accepted by the Board; however, it may be given less weight than evidence submitted in accordance with Board rules.

***E. Filing Deadlines.*** All appeals must be filed with the Board of Review on or before the Tenth Day of September, 2011, or on or before 30 days after the date of publication of the current year assessments (35 ILCS 200/16-55). The filing deadline for each township is posted on Lake County's website, www.lakecountyil.gov/boardofreview.

It is the appellant's responsibility to file his/her appeal on or before the filing deadline by

*1.* hand delivering the appeal to Board of Review when the Board of Review is open for business, generally, Monday through Friday, 8:30 a.m. to 5:00 p.m.; or

*2.* submitting the appeal with an official U.S. postmark, official receipt of a private mail/delivery service or signed affidavit of posting, indicating a date of submission on or before the filing deadline.

Note that the date stamped on metered mail is **not** accepted by the Board as an official postmark.

***F. Set for Hearing.*** Once all criteria are met (standing, use of required forms, completion of forms, evidence attached, submitted in a timely fashion), the appeal will be set for a hearing. **If the requirements are not met, the case will not be set for a hearing, the Board of Review will not render a decision and the appellant will have forfeited the right to further appeal the 2011 assessment of the subject property to the Property Tax Appeal Board (PTAB) or the Circuit Court.**

## III. Appeal Hearings

The purpose of an appeal hearing is to evaluate a property assessment based upon evidence presented by all concerned parties: typically, appellant and assessor and, where applicable, intervener.

**A.** ***Notification.*** An appellant will be notified by U.S. mail of the hearing date, time and place of the hearing. If an appellant fails to appear for the hearing, or fails to telephone the Board on the scheduled date and time, the case will be decided on the evidence submitted with the appeal form along with any evidence submitted or presented by other parties to the appeal. If an appellant has requested a hearing by letter, no notice of the hearing will be sent and the case will be decided upon the evidence previously submitted by the parties to the case.

***B. Scheduled Hearings.*** Once scheduled, appellants may change the form of their hearing from or to letter, phone or in person by simply calling the Clerk's Office at 847-377-2050. However, due to the constraints of the property tax cycle, **scheduled hearings cannot be rescheduled.**

***C. Location.*** Hearings of the Board are held at the Lake County Administration Building, 18 North County Street, 6th Floor, Waukegan, Illinois.

***D. Format.*** After parties to a case are sworn in, appeal hearings are conducted in the following manner: The appellant or his/her representative presents testimony regarding the assessment and answers any questions from the Board. The Township Assessor or a representative from his/her office is expected to be present to give evidence and testimony concerning the property and its assessment. Each party then presents closing or rebuttal remarks. This concludes the evidentiary portion of the hearing. Board Members then deliberate between or among themselves, considering the evidence, testimony and rebuttal, and announce their decision at the close of the hearing.

***E. Length.*** Because of the volume of appeals before the Board, most hearings are scheduled at fifteen-minute intervals. All presentations by an appellant and an assessor, along with questions and the deliberation of the Board, must be completed within this time frame.

***F. Decisions.*** At the end of a hearing, the Board renders a decision and states the reasons for it. After all hearings are completed for a township, official findings for each case are mailed to all appellants or their representatives. No written decisions are released prior to this time.

***G. Appellant's Access to and Evidence Submitted by Assessors.*** Appellants or their agents/attorneys should indicate an email address on the Appeal Form so that they can receive notification by email when the assessor's evidence for their case is available on line. Assessors are to electronically submit their evidence for a specific case to the Board of Review at least five (5) days prior to the scheduled hearing for the case. This triggers an email notification to the appellant or agent/attorney that the assessor's evidence is available on line. Appellants or their agents/attorneys may access the assessor's evidence for their case on the website, www.lakecountyil.gov/boardofreview. For those appellants or their agents/attorneys who do not indicate an email address, assessors are to send their evidence via U.S. mail to the appropriate appellant or agent/attorney at least five (5) days prior to the scheduled hearing.

***H. Evidence Submitted by Interveners.*** A taxing body wishing to intervene in a matter before the Board must file a Request to Intervene with the Board of Review at least five (5) days in advance of the scheduled hearing. This form is available in the Board office and online at www.lakecountyil.gov/boardofreview by clicking on Forms Library and then Board of Review Forms. Any evidence being presented by a taxing district needs to be supplied to the Assessor, appellant and Board of Review five (5) days prior to the hearing.

## IV. Bases for Assessment Appeals

### A. *Appeals Based upon Incorrect Assessor Data.*

1. ***Definition.*** Incorrect data includes, but is not limited to, size of the site, size of the improvements, physical features and locational attributes.
2. ***Evidence.*** Appeals based on the application of incorrect subject-property data by a township assessor must include a copy of the property record card for the subject, a statement highlighting the incorrect data and evidence of the correct data, such as a plat of survey, photograph or construction documents.
3. ***Assessor Access to Property.*** Appellants are urged to schedule a property inspection with their Assessor's office for appeals related to the description, physical characteristics and/or condition of the subject property.

### B. *Appeals Based on the Recent Sale of a Subject Property.*

The Board considers the sale of a subject property, which occurred within twelve months of the assessment date, as possible evidence of market value. The Board requires the following information in such an appeal:

1. Documents that disclose the purchase price of the property and the date of purchase, specifically including the signed Settlement Statement or signed HUD-1 and the recorded Illinois Real Estate Transfer Declaration (PTAX-203). The PTAX-203 usually is included among the closing documents for the sale of a subject property. However, it also is available from the local Township Assessor Office, The Chief County Assessment Office (County Administration Building, 7th Floor) and the Lake County Recorder of Deeds (County Administration Building, 6th Floor).
2. Testimony and or documentation revealing the identity of seller(s) and buyer(s) and any relationship between or among them (other than seller and buyer) including, but not limited to, those existing by blood, marriage, corporate parent-subsidiary companies or by virtue of ownership of non-publicly held stock, and whether or not the transaction was arms length.
3. If applicable, an itemized Bill of Sale, signed by seller(s) and buyer(s), and supporting documentation of the fair cash value of any personal property included in the purchase price of the subject property.

### C. *Appeals Based on Fair Cash Value.*

1. ***Definition.*** Fair cash value is defined as "the amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50) Fair cash value is often used interchangeably with market value.
2. ***Burden of Proof.*** When fair cash value is the basis of an appeal, the value of the subject property must be proved by a preponderance of the evidence.
3. ***Appraisal Evidence.*** The best evidence of fair cash value (in lieu of a recent usable sale price of a subject property itself) is a professional appraisal done for ad valorem purposes, **valuing a subject property as of the lien date, January 1st of the current assessment year.** Appraisals obtained for the purpose of an appeal this assessment year must state the subject's value as of January 1, 2011.
    a. To be considered, an appraisal must be:
        i. Prepared in conformance to the Uniform Standards of Professional Appraisal Practice as currently adopted by the Appraisal Standards Board.
        ii. Signed by the appraiser(s).
        iii. Presented in entirety, including all exhibits, with no missing pages.
    b. Except for homestead property, appraisal testimony offered to prove the valuation asserted may be given only by a preparer of the appraisal whose signature appears

thereon.

An appraisal which does not accompany an initial application is acceptable to the Board, if it is received by the Board (irrespective of post mark) within fourteen (14) calendar days of the filing deadline for residential properties or within thirty (30) calendar days of the filing deadline for commercial properties **and** if it is distributed by the appellant in the following manner: one (1) original and two (2) copies to the Board of Review and one (1) copy to the appropriate assessor's office.

**If the appraisal evidence is not submitted within the extended deadline, the appeal is late and will not be set for a hearing before the Board. Thus, the Board will not render a decision for the case and the appellant will have forfeited the right to further appeal the 2011 assessment of the subject property to the Property Tax Appeal Board (PTAB) or the Circuit Court.**

4. ***Recent Usable Sales of Comparable Properties.*** In lieu of a professional appraisal, recent usable sales of comparable properties may be submitted as evidence for a fair cash value appeal. **A usable sale is an arms length transaction of a property between or among unrelated parties which has been offered on the open market and advertised for sale.**

   If recent usable sales of comparable properties are submitted as evidence for a fair cash value appeal, it is preferable to select the best three (3) comparables which have closed as close to the lien date, January 1, 2011, as possible. Comparables should be located near the subject and/or in the same neighborhood. They should be similar in style (e.g., ranch, 2-story, split-level, etc.), construction (e.g., brick, frame, with or without a basement, etc.), age, size (e.g., square footage of lot and building), quality and condition to the subject. If comparables are not located in the subject's neighborhood, additional explanation may be needed to confirm their similarity.

   Characteristics of the subject and three (3) comparables **must** be displayed on the Lake County Comparable Property Grid (located on the County website, www.lakecountyil.gov/boardofreview, by clicking on Comparable Search Tool) and populated electronically with Lake County data, thus, comparing the subject property with comparable properties of one's choosing with validated County information. **The Board of Review does not accept comparable property grids in any other format nor grids populated with any other data base.**

   **When using the Comparable Search Tool on the County website, www.lakecountyil.gov/boardofreview, an appellant or agent/attorney is reminded to view comparable properties to confirm their similarity to the subject.**

   Submit the Lake County Comparable Property Grid with the appeal application (one original and three copies of the appeal and evidence). Pictures of the subject and comparables are helpful to the Board.

5. ***Other Evidence.*** Other evidence of fair cash value may consist of, but is not limited to, the following:
   a. Listing contract and Multiple Listing Service history of a subject property for 2010 and 2011.
   b. A complete (final) sworn contactor's affidavit of costs, if the improvement is new construction.

6. ***Income Producing Property.*** When an assessment appeal for an income-producing property is based on fair cash value, the income and expense data of the property must be submitted as evidence. A protocol for the submission of this evidence is available on the County website, www.lakecountyil.gov/boardofreview, by clicking on Appeal Forms.
    a. Where the entire property is covered under a single lease, the entire lease must be submitted as evidence.
    b. Where multiple leases are in place, the Board will consider lease summaries, audited financial statements, operating statements, rent rolls with totals and representative samples of leases submitted by the taxpayer and any such documents requested by the Board.
        i. If the property has seven or more units or has a non-residential use, the appellant must submit, at the time of filing, income and expense statements for 2008, 2009 and 2010.
    c. **Vacancy.** The Board recommends that cases based on vacancy be resolved at the Township Assessor's Office. If a vacancy case cannot be resolved at the Township Assessor's Office, the Board requires that the appellant submit an affidavit of occupancy with the Appeal Form.

***D. Appeals Based on Equity.***

1. ***Definition.*** Real property assessments shall be valued uniformly as the General Assembly provides by law (Art.9, Sec 2, Illinois Constitution of 1970). An inequitable assessment is one that values one property at a higher level of assessment (relative to fair cash value) than assessments of comparable properties. (Note: Courts in Illinois have found that mathematical exactitude is not an absolute requirement in estimating property assessments.)
2. ***Burden of Proof.*** When unequal treatment in the assessment process is the basis of an appeal, inequity must be proved by clear and convincing evidence.
3. ***Evidence Considered.*** Comparable properties usually are submitted as evidence for equity appeals, arguing that the assessed value per square foot of a subject is higher than that of comparables.

   It is preferable to select the best three (3) comparables. Comparables should be located near the subject and/or in the same neighborhood. They should be similar in style (e.g., ranch, 2-story, split-level, etc.), construction (e.g., brick, frame, with or without a basement, etc.), age, size (e.g., square footage of above ground living area), quality and condition to the subject. If comparables are not located in the subject's neighborhood, additional explanation may be needed to confirm their similarity.

   Characteristics of the subject and three (3) comparables **must** be displayed on the Lake County Comparable Property Grid (located on the County website, www.lakecountyil.gov/boardofreview, by clicking on Comparable Search Tool) and populated electronically with Lake County data, thus, comparing the subject property with comparable properties of one's choosing with validated County information. **The Board of Review does not accept comparable property grids in any other format nor grids populated with any other data base.**

   **When using the Comparable Search Tool on the County website, www.lakecountyil.gov/boardofreview, an appellant or agent/attorney is reminded to view comparable properties to confirm their similarity to the subject.**

Submit the Lake County Comparable Property Grid with the appeal application (one original and three copies of the appeal and evidence). Pictures of the subject and comparables are helpful to the Board.

*E. Appeals Based upon Matters of Law.*

1. ***Definition.*** Matters of law include such factors as carrying forward prior year residential appeal results, preferential assessment and farmland valuation.
2. ***Evidence.*** Appeals alleging an incorrect application of law must include a brief, citing the law in question, as well as copies of any legal opinions and/or judicial rulings regarding the law in question.
3. ***Prior Board of Review Decisions.*** Two thousand eleven (2011) is a general assessment year and the Board's rules governing prior Board decisions do not obtain in general assessment years.
4. ***Additional Copy Required.*** In addition to the customary one (1) original and three (3) copies of the appeal form and accompanying documentary evidence, an additional one (1) copy must be provided to the Board. The Board will forward the additional copy to the Board's legal counsel.

## V. Assessor's Requests of the Board of Review

**A.** ***Certificate of Error.*** A Certificate of Error corrects an "error in fact," affirmed by the appropriate assessor's office. The deadline for filing certificates of error with the Clerk of the Board is on or before November 15, 2011, for the 2010 property tax year.

**B.** ***Assessor Correction Requests (BRs).*** Assessors' requests for assessment valuation reductions are due the last day of hearings for a given township or December 31, 2011, whichever comes first for the 2011 property tax year.

**C.** ***Instant Assessments.*** Instant assessments typically are applied to new improvements. The filing deadline for assessors is December 31, 2011, for the 2011 property tax year. Notice is sent to the property owner when an instant assessment is applied. A property owner so notified has the right to appeal the assessment within ten (10) calendar days of the date posted on the notice by contacting the Board Office by mail or phone. The rules and procedures set forth above apply to the instant assessment hearing, except that evidence is not required at the time of application.

**D.** ***Omitted Property.*** When a property is omitted from the property tax roll, the Board has the authority to place an assessment on the property (35 ILCS 200/9-160, *et seq.*). If the Board initiates proceedings to place omitted property on the tax roll, the Board gives at least ten (10) working days written notice to the concerned parties, advising them of the Board's proposed action. The deadline for adding omitted property is November 15, 2011, for the 2011 property tax year.

## VI. Non-Homestead Exemptions

**A.** ***Applications.*** Applications for Non-Homestead exemptions must be filed on forms of the Illinois Department of Revenue: PTAX-300, PTAX-300-FS (for federal and state agencies) and PTAX-300-R (for religious entities). These forms, along with the general and specific instructions for their completion, are available at the Board of Review office and on the County's website, www.lakecountyil.gov/boardofreview, by clicking on Forms Library and then Board of Review Forms. If an exemption for multiple parcels is being sought, separate applications may be required. See the Illinois Department of Revenue general instructions to determine the required number of separate applications. The petition and supporting documentation must be submitted in duplicate. According to

the Illinois Department of Revenue, failure to answer all questions and provide all evidence will result in the return of the petition and delay a final decision.

**B.** ***Documents.*** Depending on the type of exemption and corresponding PTAX application, all or a subset of the following documents are required and, where required, must be attached to the application:

1. Proof of ownership (deed, contract for deed, title insurance policy, copy of the condemnation order and proof of payment, etc.)
2. Picture of the property
3. Notarized affidavit of use
4. Copies of any contracts or leases on the property
5. Parsonage form, where applicable.

**C.** ***Notification of Units of Government.*** If the request for an exemption would reduce the assessment by $100,000 or more, the applicant or agent for the applicant must notify the units of government in their jurisdiction. A copy of the notice and postal return receipt for each Unit of Government must be submitted with the application at the time of filing.

**D.** ***Deadline.*** Final filing date for Non-Homestead Exemptions is on or before November 15, 2011. Taxing bodies wishing to intervene must file a Request to Intervene at least five (5) days in advance of the exemption hearing. The form is available at the Board office or on line at www.lakecountyil.gov/boardofreview by clicking on Forms Library and then Board of Review Forms.

**E.** The Board of Review makes a recommendation to the Illinois Department of Revenue on whether or not a non-homestead exemption is allowed. The Illinois Department of Revenue reviews the evidence and renders the final decision.

## VII. Adoption

***Adoption.*** These rules are adopted for the 2011 session of the Lake County Board of Review as of July 6, 2011.

Thomas D. Cooprider, C.I.A.O.
Chairman

Linda M. Barbera-Stein, C.I.A.O.
Member

Pete G. Fleming
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