



## MCHENRY COUNTY BOARD OF REVIEW

**HEARING LOCATION: NORTH OF COURTHOUSE COMPLEX  
AT THE COUNTY ADMINISTRATION BUILDING**

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Jan George Hervert, CIAO-I, Chairman  
Mark Ruda, Member

Robert H. Ross, ASA  
Ex-officio Clerk

## 2011 Rules of the McHenry County Board of Review

The McHenry Board of Review (Board) consists of three members, together with additional alternate members, appointed by the Chairman of the McHenry County Board (35ILCS 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 Board, it is strongly recommended that a taxpayer discuss his/her assessment with the Township Assessor's Office (see attached list for Assessors Names, Addresses and Phone Numbers).** If, after talking with the Township Assessor's Office, a taxpayer still wishes to pursue an appeal he/she should familiarize himself/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 any 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.

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- 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 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 (35ILCS 140/2).
- G. Open Meetings Act.** Hearings held by the Board are open to the public, subject to the exceptions cited by the Open Meetings Act (35 ILCS 120/1.2).
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. The audio or video recorder **must** provide a copy of the video or audiotape to the Board within fifteen (15) days after the hearing and bear the cost of that copy.
  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. That party **must** provide a certified copy of the transcript to the Board within fifteen (15) days of the hearing and bear the cost of that transcript.
  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. If no one has informed the Clerk that a large group is expected and more persons come to a hearing than can be safely permitted in the room, the Board may restrict the number of people in the room to those who can be safely admitted.
  4. Public comment may be accepted at the Board's discretion.

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

## II. 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. 1. 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. Appeal forms provided by the Board of Review and available on the website: [www.co.mchenry.il.us/departments/assessments/pages/FormsRules.aspx](http://www.co.mchenry.il.us/departments/assessments/pages/FormsRules.aspx). All applicable items on the form must be completed. Any non-owner (such as an agent/attorney) filing an appeal on behalf of an owner must have authorization by the owner of record. Authorization of an agent/attorney is indicated by signatures on the appeal form or on an authorization form. Authorization forms are available from the website: [www.co.mchenry.il.us/departments/assessments/pages/FormsRules.aspx](http://www.co.mchenry.il.us/departments/assessments/pages/FormsRules.aspx).
- 2. Land trust.** All complaints on properties held in a land trust must be accompanied by a letter from the trustee disclosing the names of all persons or entities having beneficial interest in said property (765 ILCS 405). Failure to comply with this provision will result in dismissal of the complaint.
- B. Date of Filing.** 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 (35ILCS 200/16-55). The filing deadline for each township is posted on the McHenry County website, [www.co.mchenry.il.us/departments/assessments/pages/TownshipFilingDeadlines.aspx](http://www.co.mchenry.il.us/departments/assessments/pages/TownshipFilingDeadlines.aspx).

Appeals are deemed filed on the date:

1. Officially postmarked by the U. S. Postal Service or by a private mail/delivery service, or
2. Hand delivered to the Board of Review office and stamped received.

Filing deadlines may fall on a postal holiday or a Board of Review holiday. The Board of Review is closed on Saturdays and Sundays and the following holidays:

- a. New Years Day
- b. Martin Luther King Day
- c. President's Day
- d. Good Friday
- e. Memorial Day
- f. Independence Day
- g. Labor Day
- h. Columbus Day
- i. Veterans Day
- j. Thanksgiving Day and the following Friday
- k. Christmas Eve Day
- l. New Years Eve Day

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The Board accepts only official postmarks (not metered mail dates) and hand deliveries on or before deadlines. It does not accept appeal forms nor case-related materials by fax or email. Late filings are not scheduled for hearings.

**C. *Appeal forms and Information.*** The Board requires that all parties to an appeal utilize the prescribed forms and comparison grids of the McHenry County Board of Review. These forms are available at the township Assessor Offices, the Chief County Assessment Office and via the County's website, [www.co.mchenry.il.us/departments/assessments/pages/FormsRules.aspx](http://www.co.mchenry.il.us/departments/assessments/pages/FormsRules.aspx). Neither the Board nor its Clerk will send appeal forms or information by any method other than first class mail.

1. ***Incomplete Forms.*** Incomplete appeal forms will be set for hearing but may result in no change in assessment.
2. ***Contiguous Parcel.*** 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.
3. ***One Complaint form for Each Parcel Number.*** All taxpayers or owners of property having assessment complaints shall make the same in writing on forms furnished by the Board. Complaints, one for each parcel number, shall be signed, fully completed, contain the address of the property complained of and contain the address of the complainant.

**D. *Reductions 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. It is therefore required that appellants supply their requested assessment total in the appropriate space on the appeal form. If this information is not provided, the Board will assume the requested assessment in \$100,000 or more and thus notify all potentially impacted taxing districts.

**E. *Submission of Evidence.***

1. **The Board requires that the original appeal form and evidence, plus 1 copy of the form and evidence, be submitted at the time of application, except for a documented appraisal report, which must be received in the Board office (irrespective of postmark) no more than ten (10) calendar days for residential and twenty (20) calendar days for commercial and industrial after the filing deadline. The Board forwards a copy of each appeal and accompanying evidence to the appropriate township assessor. Any appellant or agent/attorney filing additional evidence with the Board of Review after the initial case submission must forward the additional evidence to the appropriate township assessor's office.**
2. **The Board of Review recommends the township assessors to have all appeal evidence in the Board of Review offices at least two (2) business days in advance of the schedule hearing date. When possible, evidence will be electronically supplied to the appellant if an email address was provided. If no email address was provided, the appellant will be notified via telephone as to where to pick-up the evidence in advance of the hearing as time permits.**
3. **Evidence submitted at the hearing by any party (appellant, assessor, or intervenor) may be**

- accepted by the Board; however, it may be given less weight than evidence submitted in accordance with Board rules.
- F. *Hearing Notification.*** An appellant will be notified by U.S. Mail of the hearing date, time and place of the hearing.
- G. *Scheduled Hearings.*** **Scheduled hearings are not rescheduled** due to time constraints of the property tax cycle. Board of Review schedules are posted on the county website.
- H. *Attendance.*** If an appellant fails to appear for the hearing, 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 but if no evidence is submitted the appeal will be dismissed. If an appellant has requested to waive attendance at a hearing, no notice will be sent and the case will be decided upon the evidence submitted by the appellant with the appeal form plus any evidence submitted by other parties to the case: typically the township assessor and, where applicable, an intervener.
- I. *Location of Hearings.*** Hearings of the Board are held at the McHenry County Administration Building, Suite 106, 667 Ware Road, Woodstock, Illinois 60098. Meetings may be held at other locations in the County at the discretion of the Board.
- J. *Hearing Format.*** Appeal hearings are conducted in the following manner: The appellant or his/her representative may present testimony regarding the assessment and are required to answer 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 may then present 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 generally announce their decision at the close of the hearing.
- K. *Hearing 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.
- L. *Decisions.*** In most instances, at the end of a hearing, the Board will render a decision and state the reasons for it. There are some instances where the Board needs to deliberate further on a case, causing a decision to be rendered at a later date. After all hearings are completed for the county, official findings for each case are mailed to all appellants or their representatives. No written decisions are released prior to this time.

### III. Bases for Assessment Appeals

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

Our mission: Acting as an unbiased intermediary between assessor and taxpayers, the Board of Review provides an important role in striving for equitable and fair property assessments in McHenry County through the assessment appeal process.

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 including the Settlement Statement, or RESPA, or the State of Illinois Real Estate Transfer Declaration form.
2. Testimony and or documentation revealing the identity of sellers(s) and buyer(s) and any relationship between or among them (other than seller or buyer) including, but not limited to, those existing by blood, marriage, corporate parent-subsidary companies or by virtue of ownership of non-publicly held stock, and whether or not the transaction was arms length.
3. An itemized Bill of Sale signed by seller(s) and buyers(s), and supporting documentation of the fair cash value of any personal property included in the sale 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 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.

**Market Value:** The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of the specified date and the passing of title from seller to buyer under conditions whereby: 1) buyer and seller are typically motivated; 2) both parties are well informed or well advised, and each acting in what he or she considers his or her own best interest; 3) a reasonable time is allowed for exposure in the open market; 4) payment is made in terms of cash in US dollars or in terms of financial arrangements comparable thereto; and 5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

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 itself) is a professional appraisal done for ad valorem purposes, **valuing a subject property as of the lien date, January 1<sup>st</sup> 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. Appraisal testimony offered to prove the valuation asserted by any party shall not be accepted at the hearing unless a documented appraisal report has been timely submitted.
- c. 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 Appeal Form is acceptable to the Board, if it is received by the Board (irrespective of post mark) within ten (10) calendar days for residential and twenty (20) calendar days for commercial and industrial of the filing deadline 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.** Appraisals which are not filed in a timely manner nor appropriately distributed to the Board of Review and appropriate assessor may not be considered by the Board.

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. **Useable sales are arm's length sales that meet the definition of Fair Cash Value and Market Value as defined on the previous page. Short sales, bank owned sales, and corporate owned sales may be used, but not in greater percentage than the mix of sales in the market area of the subject property.**

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 (3) comparables must be displayed on the Residential Comparison Grid, located on the County website, [www.co.mchenry.il.us/departments/assessments/pages/FormsRules.aspx](http://www.co.mchenry.il.us/departments/assessments/pages/FormsRules.aspx) and submitted with the original appeal. **It is recommended to submit photographs of the subject property and the comparables when filing an appeal.**

Comparable properties offered in testimony but not submitted with the original appeal may not be considered by the Board, unless provided to all parties prior to a hearing.

- 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 the subject property in 2010 and 2011.
  - b. A complete (final) sworn contractor's affidavit of costs, if the improvement is new construction, together with a Settlement Statement (or RESPA).
- 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. 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, rent roll with totals and representative samples of leases submitted by the taxpayer and any such documents requested by the Board.
    - i. If the property is fully residential with six or fewer units, the appellant must provide to the Board at the time of filing the operating statements, audits and all other pertinent information.
    - ii. 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.** If an appeal for reduced assessment is based upon vacancy, the appellant must provide an affidavit of occupancy.

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

- 1. Definition. Equity:** Real property assessments shall be valued uniformly as the General Assembly provided 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 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 Residential Comparison Grid located on the McHenry County website: [www.co.mchenry.il.us/departments/assessments/pages/FormsRules.aspx](http://www.co.mchenry.il.us/departments/assessments/pages/FormsRules.aspx) and submitted with the original appeal, **together with pictures of the subject and comparables.**

Comparable properties, offered in testimony but not submitted with the original appeal, may not be considered by the Board, unless provided to all parties prior to a hearing.

4. ***Income-producing Properties.*** When an assessment appeal for an income-producing property is based on equity, the income and expense data of the property must be submitted as evidence, including all leases and/or rent rolls for the three (3) years previous to the lien date.

#### ***E. Appeals Based upon Matters of Law.***

1. ***Definition.*** **Matters of Law** include such factors as carrying forward prior Residential appeal results, preferential assessment and farmland valuation.
2. ***Evidence.*** Appeals alleging an incorrect application of law must include brief, citing the law in question, as well as copies of any legal opinions and/or judicial rulings regarding the law in question.
3. ***Additional Copy Required.*** In addition to the customary one (1) original and (1) copy 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.

### **IV. Assessor's Corrections**

- A. ***Deadline.*** The final filing date for Assessor's 2011 correction requests and/or instant assessments is December 6, 2011.
- B. ***Notice.*** A notice is sent to the taxpayer and assessor. A request for a hearing must be made within ten (10) calendar days of the date posted on the notice by contacting the Board office at the address and phone listed on the first page of the appeal form.
- C. ***Evidence.*** For hearings regarding corrections, the Rules regarding hearings set forth above apply, except that both the taxpayer/property owner and the Township Assessor may present evidence at the time of the hearing.

## V. Certificates of Error

- A. **Error in Fact.** A Certificate of Error, when presented to the Board, must be accompanied by evidence of “error in fact.” Failure to present proper evidence upon request may cause non-concurrence by the Board.
- B. **Deadline.** Requests for Certificate of Error for the 2010 tax year must be filed with the Clerk of the Board of Review on or before October 6, 2011

## VI. Omitted Property

- A. **Authority.** The Board has the authority to place an assessment on omitted property (35ILCS 200/9-160), et seq.)
- B. **Notice.** If the Board initiates proceedings designed to place omitted property on the tax rolls, the Board gives at least ten (10) working days written notice to the concerned parties, advising them of the Board’s proposed action.

## VII. Non-Homestead Exemptions

- A. **Applications.** Applications for Non-Homestead exemptions must be filed on forms of the Illinois Department of Revenue: PTAX-300, PTAX-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.co.mchenry.il.us/departments/assessments/pages/index.aspx](http://www.co.mchenry.il.us/departments/assessments/pages/index.aspx).

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.** The following documents must be attached to the application forms:
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. Notorized 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 letters showing the notification of each Unit of Government must be submitted with the application at time of filing.
- D. **Deadline.** Final filing date for Non-Homestead Exemptions is on or before December 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.co.mchenry.il.us/departments/assessments/pages/FormsRules.aspx](http://www.co.mchenry.il.us/departments/assessments/pages/FormsRules.aspx).
- E. The Board of Review makes a recommendation to the Illinois Department of Revenue as to whether or not a non-homestead exemption is allowed. The Illinois Department of Revenue reviews the evidence and renders the final decision.

## VIII Equalization

- 1. **Authority.** Subject to the restrictions of the property tax code, the Board of Review may increase or reduce the entire assessment, or the assessment of any class included therein, if, in its opinion, the assessment has not been made upon the proper basis. The Board may also equalize the assessment in any township, or part thereof, or any portion of the county (35 ILCS 200/16-60).

**IX Adoption**

1. ***Adoption.*** These rules are adopted for the 2011 session of the McHenry County Board of Review June 9, 2011.

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**Jan George Hervert, CIAO-I Chairman**

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**Mark Ruda, Member**