



Kane County Board of Review

2018

The Kane County Board of Review has adopted these rules and procedures "for the guidance of persons doing business with them and for the orderly dispatch of business" (35 ILCS 200/9-5). Questions may be directed to the Board of Review office at (630) 208-3818.

Rules and Procedures

Kevin J. Schulenburg, RAA , Chairman
Michael E. Madziarek, CIAO, Member
Timothy J. Sullivan, MAI, SRA , Member
Mark D. Armstrong, CIAO, Clerk

Our Mission: A fair, impartial, and respectful review of every assessment complaint.

Frequently Asked Questions

Must I come before the Board in person to present my case?

No, you do not have to appear before the Board unless you wish to do so. Taxpayers have the option of filing an assessment complaint without having to appear before the Board by checking the box below the signature on page one of the assessment complaint form. You will receive written notice of the Board's finding sometime in late winter or early spring.

If I ask for a hearing and cannot attend the date I am assigned, can the hearing be rescheduled?

Unfortunately, no. While the Board of Review wishes it could offer scheduling options, the sheer volume of complaints does not permit it to do so.

What happens if I ask for a hearing but do not appear?

In the event of a non-appearance by a complainant who has requested a hearing, the Board shall dismiss the complaint unless a properly executed Board of Review Stipulation Form has been executed and submitted by the Township Assessor.

Can I participate in my hearing by teleconference?

Yes. See Rule B.6 (page 6) for instructions.

Can I have more than 3 comparable properties?

Yes, you may use as many comparables as you like; the Board of Review asks that you use the three properties that are the most similar to yours as your first three comparables on the complaint form.

How many copies of documentation are necessary when submitting the complaint form?

Please submit one (1) copy of your complaint form and one (1) copy of all other documents. Multiple copies are not needed.

How should I attach any additional information to my complaint form?

Please use paper clips or binder clips; please do not use staples or any other type of binding.

When can I have a copy of assessor evidence?

Instructions on how to download a copy of the Assessor's evidence will be included in all hearing notices.

When will I receive notification of the results from my hearing?

In most cases, the Board of Review will provide a preliminary decision at the conclusion of the hearing. A final Notice of Findings will be mailed to each taxpayer at the conclusion of the Board's 2018 hearings; this will probably be in January or February of 2019.

If I do not agree with the Board of Review's decision about my equalized assessed value, can I appeal it?

Yes. Valuation decisions can be appealed to the Illinois Property Tax Appeal Board (PTAB) within 30 days of the Notice of Findings being sent. Appeal forms are available at the County Assessment Office or www.ptab.illinois.gov/forms.html

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The Illinois Property Tax Code requires that valuations for the 2018 assessment year shall be made as of January 1, 2018 (See 35 ILCS 200/9-155, *et seq.*). It also requires that the assessments reflect one-third of the fair cash value of property, as determined by sales from 2015, 2016, and 2017 (See 35 ILCS 200/1-55). Any party presenting valuation evidence from sales prior to January 1, 2015 or after January 1, 2018 has the burden of proof of establishing why such evidence best represents the valuation period in question and should be considered by the Board of Review.

A. Administrative Rules

1. **Convening the Board.** The Board will convene on or before the First Monday of June and will recess from day to day as may be necessary.
2. **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 or provisions, which shall continue in full force and effect. For this purpose, the provisions of this policy are severable.
3. **Amendments.** These rules may be amended from time to time; amendments are effective upon their being conspicuously posted and prominently displayed by the Clerk of the Board.
4. **Retroactivity.** A Board complaint decision resulting in a change of assessed value will be effective for only the current assessment year; the Board does not have retroactive power except with regard to omitted property and the process of stipulation of assessed value on appeals which are currently before the Property Tax Appeal Board for prior tax years.
5. **Date of Filing.** Complaints and other written correspondence sent by the United States mail shall be considered filed as of the postmark date in accordance with Section 1.25 of the Statute on Statutes. Complaints and other written correspondence sent by a delivery service other than the United States Postal System shall be considered as filed as of the date sent as indicated by the shipper's tracking label.
 - a. This provision does not apply to communications mailed to any location other than the Board's office at 719 Batavia Avenue in Geneva, Illinois.
 - b. Communications mailed but not received by the Board, or if received but without a cancellation mark or with the cancellation mark illegible or erroneous, shall be deemed filed with or received by the Board on the date it was mailed, but only if the sender establishes by competent evidence that the communication was deposited, properly addressed, in the United States mail on or before the date on which it was required or authorized to be filed or was due.
6. **Forms.** Forms are available from the Clerk of the Board during regular business hours; selected forms are also available from the Board's web site. The Board will not send forms out by overnight express, fax machine, or any method other than first class mail.
7. **Ex Parte Communications.** Ex parte communications are those that are from one side in a matter to be considered by the Board, with the other side absent or unrepresented.
 - a. Except in the disposition of matters that agencies are authorized by law to entertain or dispose of on an *ex parte* basis, the Board Members shall not, with respect to any pending complaint, communicate directly or indirectly, in connection with any issue

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- of fact, with any person, party or the representative of any party, except upon notice and an opportunity for all parties to participate.
- b. An *ex parte* communication received by any Board Member shall be made a part of the record of the pending complaint, including all written communications, all written responses to the communications, and a memorandum stating the substance of all oral communications and all responses made and the identity of each person for whom the *ex parte* communication was received.
 - c. Communications regarding matters of practice and procedure, such as the status of complaints, filing requirements, form letters, scheduling of hearings, administrative review, and the like, are not considered *ex parte* communications under this Section.
- 8. Failure to Follow Board Rules.** Failure to follow any rule may, in and of itself, be grounds for the denial of any relief.
- 9. Freedom of Information Act Policy.** The Board of Review is a public body as defined in the Freedom of Information Act (See 5 ILCS 140). The Board's Freedom of Information policy shall be conspicuously posted at the Board's office, and shall be posted on the Board's web site at <http://www.kanecountyassessments.org/FOIAPolicy.pdf>.
- 10. Ethics Policy.** No Board of Review member shall participate in any hearing in which the Board member has a conflict of interest.
- a. No member may participate in any hearing where the complainant is a family member, personal friend, employee, or business client of the member.
 - b. No member may participate in any hearing where the complainant offers an appraisal or document prepared by the member as evidence in the complaint.
 - c. No member shall testify before the Kane County Board of Review in any capacity regarding any Kane County property.
 - d. No member shall testify before the Illinois Property Tax Appeal Board on behalf of a taxpayer in any capacity regarding any Kane County property.
 - e. Nothing in this section shall be construed to prevent a member from testifying in a complaint where the member is the owner or taxpayer of the property.
 - f. No member shall accept any gift of any type from any property owner, attorney, witness, or assessing officer who appears before the Board of Review in any capacity.
 - g. Except where it conflicts with other provisions of this section or otherwise conflicts with Illinois law, the Board of Review adopts Chapter 1, Article III, Section 3 (Ethics) of the Kane County Code, as amended from time to time.
 - h. This section shall apply to both full and additional members of the Board of Review.

B. Meetings

- 1. Location.** Regular meetings of the Board will be held at the Kane County Government Center, Third Floor of Building C, 719 Batavia Avenue, Geneva, Illinois. Meetings may be held at other locations in the County at the discretion of the Board.
- 2. Open Meetings.** Meetings of the Board are open to the public, subject to the exceptions cited by the Open Meetings Act (See 5 ILCS 120).
 - a. Audio or video recording is permitted by any person; however, it cannot be done in such a way as to disrupt the meeting, and participants will not be required to identify their selves to facilitate such recordings.

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- b. If a transcript of a hearing is desired, a court reporter will have to be obtained at the expense of either the complainant or attorney prior to the hearing. A certified copy of the transcript must be provided to the Board within fifteen (15) business days. The cost of the transcript will be borne by the complainant.
 - c. The Board's hearing rooms have a limited capacity. If the complainant anticipates the attendance of more than five witnesses or other persons, the complainant must immediately contact the Clerk of the Board, who will 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 the 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.
 - d. Observers do not have a right to speak or present evidence unless they are called to do so by someone with standing before the Board (see Rule C.3 for information regarding standing before the Board).
- 3. Rescheduling.** Due to time constraints of the Real Estate Tax Cycle, scheduled hearing dates and times will not be changed unless the County Government Center is closed for weather or other emergency-related reasons.
- 4. Improper Conduct or Language.** When a party, the party's agent, or the party's witnesses engage in threatening, disruptive, vulgar, abusive or obscene conduct or language (including use of racial epithets) which delays or protracts a proceeding, the Board, by any Member, or Hearing Officer, shall exclude the offending person from the proceeding. Any party engaging in such conduct or language shall be defaulted.
- 5. Conduct of Meetings and Hearings.** In connection with any proceeding before the Board, the Board shall have full authority to:
- a. Conduct and control the procedure of the hearing.
 - b. Admit or exclude testimony or other evidence into the record pursuant to these rules.
 - c. Administer oaths and affirmations and examine all persons appearing at the hearing to testify or to offer evidence.
 - d. Require the production of any book, record, paper or document at any state of the complaint or of the hearing which is the foundation for any evidence or testimony presented in the complaint. The failure to produce a requested book, record, paper, or document may result in the dismissal of the complaint.
- 6. Teleconference Hearings.** Each complainant requesting a hearing will be given notice by U.S. Mail of the date and time of the hearing. If the owner or owner's representative wishes to have a hearing by teleconference, the complainant may, after receipt of a hearing notice, contact the Board office and request a hearing by teleconference.
- a. When requesting a *Teleconference* hearing, the complainant shall call the Board office by the close of business of the last business day prior to the hearing date and provide the telephone number the Board can call at the time of the hearing, or as soon afterward as the Board's schedule may permit.
 - b. The quality of the telephone connection is the responsibility of the complainant.
 - c. If the complainant cannot be reached at the provided number, or if the call quality is too poor to understand person(s) on the telephone, the Board will make whatever

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decision is deemed lawful and just based on the evidence presented and the testimony of the Township Assessor, including dismissal of the complaint.

7. ***Non-Appearance at Hearings Scheduled at Taxpayer Request.*** In the event of a non-appearance by a complainant who has requested a hearing, the Board shall dismiss the complaint unless a properly executed Board of Review Stipulation Form has been submitted by the Township Assessor. A Stipulation Form shall not be considered properly submitted if it lacks evidence to support the valuation conclusion.

C. Assessment Complaints—General Procedures

1. ***Consultation with Township Assessor.*** Taxpayers are strongly encouraged to discuss their real estate assessments with the Township Assessor prior to the filing of a complaint with the Board. Many times the reason for the assessment can be made clear or any errors in the property record card can be corrected, eliminating the need for filing a complaint.
 - a. After talking with the Township Assessor, taxpayers still wishing to pursue an assessment complaint will need to familiarize themselves with the following rules governing hearings before the Board.
 - b. By state law, the time period for filing a complaint cannot be extended while discussing the assessment with the Township Assessor.
2. ***Basis for the Assessment Complaint.*** There are generally four legitimate bases for assessment complaints:
 - a. Overvaluation (see section D of these rules for further information).
 - b. Equity of assessment (see section E for further information).
 - c. Discrepancy in Physical Data (see section F for further information).
 - d. Property qualifies for Preferential Assessment (see section G for further information).Neither the amount of taxes paid, nor the change in the individual or aggregate property tax rates, nor the percentage of assessment change are appropriate bases for contesting the assessment of a property. The Board of Review has no authority over any valuation prior to the 2018 year; therefore, percentage of assessment change is not a valid basis for an assessment complaint. Every complaint shall state the facts upon which the contesting party bases an objection to the assessment, together with a statement of the contention(s) of law the contesting party desires to raise. The Board requires that the complainant's evidence be submitted either by paper copy at the time of filing the Real Estate Complaint or electronically by submission at www.kanecountyassessments.org/evidence.html no more than fourteen (14) calendar days after the filing deadline. Copies of all complaints and evidence are forwarded to the Township Assessor.
3. ***Standing to File a Complaint.*** Only a taxpayer or owner of property dissatisfied with the property's assessment for taxation purposes, 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 a complaint with the Board.
 - a. Any attorney filing a complaint on behalf of a taxpayer or property owner must have authorization by an owner of record; this authorization must accompany the original complaint form or the form will be returned to the property owner. Authorizations signed by management agents, association presidents (unless accompanied by a

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- resolution of authorization by the association's board pursuant to 765 ILCS 605/10), or any party other than the property owner will also be returned to the property owner.
- b. Any taxpayer who is not the owner of record or the beneficial owner via an Illinois Land Trust (such as a tenant who has been assigned the legal liability for property taxes) must, at the time of filing the complaint, provide a copy of the written instrument that transfers property tax liability from the owner to the taxpayer. Corporations must be represented by an attorney licensed to practice law in Illinois.
 - c. Any non-owner representing an owner before the Board of Review is engaged in the practice of law (See *In Re: Yamaguchi*, Ill. Supreme Court (1987), 118 Ill.2d 417, 515 N.E.2d 1235, 113 Ill.Dec. 928); therefore, only attorneys licensed to practice law in Illinois may file a complaint on behalf of a taxpayer or property owner.
 - d. The Board of Managers of a Condominium Association that has been organized under the Illinois Condominium Property Act has the power to file an assessment complaint on behalf of all property owners in the Condominium Association, provided the filing was authorized by "a two-thirds vote of the members of the board of managers or by the affirmative vote of not less than a majority of the unit owners at a meeting duly called for such purpose, or upon such greater vote as may be required by the declaration or bylaws" (See 765 ILCS 605/10(c)).
 - e. Any taxpayer or property owner who timely files an assessment complaint for a condominium unit shall be deemed to have opted out of any filing made by a Condominium Association.
 - f. Any party seeking to contest the standing of another party to file an assessment complaint must do so in writing to the Clerk of the Board within the same time limits established to provide evidence under Rule C.13 of these Rules and Procedures.
- 4. Reductions in Excess of \$100,000.** Pursuant to 35 ILCS 200/16-55, if a complainant is requesting a reduction in assessed valuation of \$100,000 or more, or if a Township Assessor is proposing a settlement that would result in a reduction in assessed valuation of \$100,000 or more, the Board must notify each respective taxing district.
- a. Complainants must supply their requested assessment total in the appropriate space on the complaint form, or must check the appropriate box if it is anticipated that an appraisal report will be submitted that would result in a reduction of \$100,000 or more in assessed value. If this information is not provided the Board will not make a reduction of \$100,000 or more.
 - b. If a Township Assessor is submitting a proposed stipulation that would result in a reduction of more than \$100,000 in assessed value, the Clerk of the Board must be notified by the Township Assessor.
- 5. Incomplete Complaint Forms.** Incomplete complaint forms will be returned to the property owner, regardless of who submitted the complaint form. Complaints that have been returned may be resubmitted to the Board, but will not be accepted unless the resubmittal meets the filing deadline established in Rule C.10, unless a different deadline has been established by state law. The Clerk of the Board is authorized to enforce these

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provisions on the Board's behalf. For purposes of this section, an *Incomplete Complaint Form* is defined as:

- a. A complaint form that lacks sufficient information to identify the property in question;
- b. A complaint form that is not signed by the property owner or taxpayer; or
- c. A complaint form that is signed by an agent, but is not accompanied by a letter of authorization signed by the property owner.

Notwithstanding the above, taxpayers are advised that filing a complaint form that is blank or otherwise lacks evidence may result in a dismissal of the complaint for lack of evidence.

6. **Facsimiles.** Faxed and/or e-mailed complaint forms will not be accepted.
7. **Contiguous Parcels.** When filing a complaint, 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.
8. **Excess Land.** An argument that a portion of a property should be treated as excess land shall be supported by a plat of survey detailing the dimensions and locations of all buildings, parking areas, or other improvements; any unimproved areas or storage used, and the product or person flow across the property. The actual use of the property shall be specified. A recent original and clear photograph of the land claimed to be excess shall be filed with the Board.
9. **Complaints for Properties with Multiple Parcel Numbers.** If a single property has multiple property index numbers, the complaint may be filed on one form; however, the complaint must be accompanied by an addendum clearly stating all property index numbers within the complaint. For purposes of this section, the term *single property* is defined as a property that is physically contiguous, has a uniform ownership, and a uniform highest and best use.
10. **Filing Deadline.** Fully completed complaints must be filed with the Clerk of the Board on or before 30 calendar days after date of publication of the current year assessment list (35 ILCS 200/16-55).
11. **Submission of Evidence.** The Board will consider all evidence submitted. All evidence to support complainant's opinion of market value must be submitted to the Clerk of the Board either by paper copy at the time of filing the Real Estate Complaint or electronically by submission at www.KaneCountyAssessments.org/evidence.html no more than fourteen (14) calendar days after the filing deadline.
12. **Disclosure of Recent Sale Required.** A taxpayer shall disclose the purchase price of the property and the date of purchase if it took place on or after January 1, 2015, and shall file with the Board appropriate relevant sales documents.
 - a. Both the seller's and the buyer's identity must be revealed, as well as any other relationship between them (other than seller and 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 the transaction was arms length.

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- b. When sales documents reflect a market value substantially above or below the Assessor's market value, taxpayers shall provide the Board with an affidavit from a party, having knowledge of the facts, stating a description of the events leading up to the sale, including prior purchase proposals, cash amounts offered, length of time on the market, and the reasons for the sale.
- c. Any personal property included in the sale must be fully documented, including its fair cash value.

13. Evidence Submission by Township Assessors and Taxing Bodies. Township Assessors may submit evidence regarding a property subject to an assessment complaint. Taxing Bodies may intervene in assessment-complaint proceedings pursuant to 35 ILCS 200/16-55. All evidence to support the Township Assessor's or Taxing Body's opinion of market value (including complete Property Record Cards) must be submitted to this office no less than five (5) business days prior to the hearing.

- a. If a taxpayer has requested to appear at a hearing before the Board either in person or by teleconference, the taxpayer will be mailed information on how to download the evidence being used to support the Assessor's or Taxing Body's opinion of Market Value. This information will be included in the notice of hearing provided in Rule C.15.
- b. Township Assessors and Taxing Bodies are encouraged to have a copy of their evidence available at their offices for complainants, but are not required to do so.
- c. If insufficient evidence relative to the complaint is submitted by the Township Assessor or Taxing Body, the Board may, at its sole discretion, conduct an independent investigation regarding the taxpayer's claim.
- d. A Township Assessor may, at the Township Assessor's sole discretion, submit a Board of Review Stipulation Form signed by both the Township Assessor and the Taxpayer. If such form is submitted, it must include evidence to support the valuation conclusion.

14. Hearing Officers. Any single member of the Board may act as a hearing officer. No decision shall be finalized without the concurrence of at least two members of the Board.

15. Hearing Notification. Complainants who request a hearing will be notified by U.S. Mail of the hearing date, time and place of said hearing. If a complainant fails to appear for the hearing, the Board will take such action with respect to the complainant's complaint as shall appear to the Board to be lawful and just.

- a. For all townships where the assessment roll was certified by the Township Assessor to the County Supervisor of Assessments on or before June 15, 2018, complainants shall be given at least 30 calendar days' notice of the hearing.
- b. For all townships where the assessment roll was certified by the Township Assessor to the County Supervisor of Assessments after June 15, 2018, complainants shall be given at least 14 calendar days' notice of the hearing.

16. Hearing Format. Hearings on complaints will be conducted in the following format:

- a. The complainant or the complainant's attorney may present testimony regarding the assessment and shall be required to answer any questions of the Board.
 - i. Although accountants, tax consultants, appraisers, real estate experts, corporate employees and any other consultants may be called as witnesses by the complainant or by the complainant's attorney, they may not conduct questioning,

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introduce evidence into the record, or conduct themselves in any manner which may be interpreted as the unauthorized practice of law.

- ii. Nothing in this section shall be deemed to prevent third-party assistance so that those taxpayers and property owners with language and/or disability barriers may participate in hearings before the Board of Review.
- b. The Township Assessor or a representative from his/her office may present testimony regarding the assessment and shall be required to answer any questions of the Board.
- c. Each party may then present closing or rebuttal remarks and then the hearing will close.
- d. The Board will consider the evidence presented as well as any information that the Board has discovered regarding the property and correct the assessment “as appears to be just” (See 35 ILCS 200/16-55).
- e. If the complainant indicates on the complaint form that an oral hearing is not required for the complaint, then the Board will not schedule the complaint for an *oral* hearing. Written Assessor evidence will still be received. The Board will then consider the evidence presented as well as any information that the Board discovers regarding the property and correct the assessment “as appears to be just” (See 35 ILCS 200/16-55).
- f. A preliminary decision will generally be announced at the end of the hearing; a final decision will not be issued until the end of the Board’s yearly session.

17. Hearing Length. Because of the volume of complaints before the Board, most hearings are scheduled at fifteen-minute intervals. All presentations by the complainant and the assessor, along with questions that may be asked by the Board, must be completed within this time frame.

18. Preliminary Notification. In most instances, the complainant will be notified at the end of the hearing of the Board’s decision and the reason for that decision.

- a. There will be some instances where the Board will need to deliberate further on a case, causing a decision to be rendered at a later date. The Board reserves the right to further alter a decision after a hearing for the purpose of uniformity.
- b. After all hearings are completed, official findings for each case will be mailed to all complainants. No written decisions will be released prior to this time.

19. Complaints by Condominium Associations. Filings made by the Board of Managers of a Condominium Association under 765 ILCS 605/10(c) shall include a copy of the resolution authorizing the filing.

- a. Complaints filed by Condominium Associations must be made on the Condominium Association Assessment Complaint Form.
- b. Evidence may include comparable sales or sales-ratio studies; however, appraisals and value opinions (including those developed and offered by internet firms) will not be accepted as evidence by the Board of Review unless they are certified in writing by the person developing the opinion of value.
- c. Any unit owners filing complaints outside of the filing made by the Condominium Association shall be deemed to have opted out of the Association’s filing and those properties will not be considered to have a part of the complaint filed by the Association.

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D. Assessment Complaints Based upon Overvaluation

1. **Definition.** Overvaluation is when the value indicated by the equalized assessed value of the property exceeds the property's Fair Cash Value, as evidenced by sale data from 2015, 2016, and 2017 (See 35 ILCS 200/1-55). 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" (See 35 ILCS 200/1-50). Fair Cash Value is often used interchangeably with "Market Value." The Illinois Supreme Court has held that "It is clearly the value of the 'tract or lot of real property' which is assessed, rather than the value of the interest presently held by the owner" (*Springfield Marine Bank v. Property Tax Appeal Board*, 44 Ill.2d 428, 256 N.E.2d 334., 1970). Thus, complaints based on overvaluation shall provide evidence of the value of the *fee simple estate* of the property, which includes all rights except the power of taxation, eminent domain, police power, and escheat, which have been reserved for the government.
2. **Burden of Proof.** When overvaluation is the basis of the complaint, the value of the subject property must be proved by a preponderance of the evidence.
3. **Evidence Considered.** If comparable properties are submitted as evidence for the complaint, *it is preferable to use the best three (3) and these must be included* with the original complaint. Additional comparables may be included at the discretion of the complainant.
4. **Comparable Properties.** Comparable properties should be located near the subject property and/or in the same subdivision. Comparable properties located farther from the subject property or in a different subdivision will be considered by the Board, but any party submitting such properties as comparable has the burden of proving that those sales are the most comparable ones available.
 - a. Comparable properties should be similar in size, construction, quality, age, style and condition to the subject property.
 - b. Comparable properties shall be market transactions, based on the definition of Fair Cash Value noted above. Examples of non-market transactions include properties that were not advertised for sale, transactions that fulfill long-term contracts, sales between related parties, sales of partial interests, court-ordered sales, condemnation sales, sales to or from an adjoining owner, purchase options, trades, and sale-leaseback transactions.
 - c. Any party seeking to include or exclude a sale on the basis of the list in this section shall submit written evidence as to why such sale should be included or excluded.
 - d. Comparable properties offered in testimony that were not submitted ahead of the hearing pursuant to these rules will not be considered by the Board.
5. **Use of Short Sales and Post-Foreclosure Sales as Evidence.** The Board of Review will consider both short sales and post-foreclosure sales as evidence.
 - a. A "short sale" is a sale where the seller has agreed to accept a sale price that is less than the balance on the existing mortgage(s). Short sales are generally considered market transactions unless they also meet one of the excluding conditions in Section D.4 above.
 - b. A "post foreclosure sale" is the first sale after the completion of foreclosure proceedings where the lender in possession sells the property to a new buyer. Post-

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foreclosure sales are generally considered market transactions unless they also meet one of the excluding conditions in Section D.4 above.

6. **Use of Relocation Sales as Evidence.** A “relocation sale” is a sale where either the buyer or seller is a relocation company or similar entity. As relocation companies are typically compensated in ways that are not reported in real estate transactions, they generally do not meet the statutory definition of Fair Cash Value. Any party seeking to use a relocation sale as evidence in a complaint should submit written evidence as to why such a sale does meet the statutory definition of Fair Cash Value.
7. **Appraisal Evidence.** In the event that supplemental documentation such as a professional appraisal report to establish market value is to be presented, an appraisal report prepared by an appraiser who is certified to practice by the State of Illinois must be received by the Board pursuant to the rules of evidence submission. Appraisal report(s) which are not filed in a timely manner will not be considered by the Board.
 - a. Appraisals and value opinions (including those developed and offered by internet firms) will be given minimal emphasis by the Board of Review unless they are certified in writing by the person developing the opinion of value. 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 its entirety, including all exhibits, with no missing pages.
 - b. An appraisal report developed specifically for use at a Board of Review hearing shall have a valuation date of January 1, 2018.
 - c. An appraisal report developed for another purpose may be submitted as evidence; however, the farther the valuation date from January 1, 2018, the less consideration the appraisal report will receive. Restricted Appraisal Reports, as defined by the Uniform Standards of Professional Appraisal Practice, will not be given any consideration unless accompanied by the Appraiser’s entire file containing the supporting documentation.
 - d. 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.
 - e. Except for homestead property, appraisal testimony offered to prove the valuation asserted may be given only by a preparer of the documented appraisal report whose signature appears thereon.
 - f. Valuations prepared by attorneys or others who have a fiduciary responsibility to advocate on behalf of their clients will be given diminished emphasis in deliberations by the Board of Review.
8. **Other Evidence.** Other evidence may consist of, but is not limited to, the following:
 - a. Listing contract of the subject property.
 - b. Sales contract and closing statement and a Real Estate Settlement Procedures Act (RESPA) statement showing the purchase price and closing date of the property in question.

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- c. A complete (final) sworn contractor's affidavit of costs if the improvement is new construction.
 - d. Multiple Listing Service listings showing sales price, sales date, descriptive data, and a photograph of a comparable house. Comparable properties are those located close to the property in question, with the same style, similar size and age as the property in question. Usually three or more such comparable properties with current sales to January 1 of the year in question can provide strong indications of the fair cash value of the property in question.
 - e. An income approach to value may be submitted as evidence. Any party submitting an income approach should note:
 - i. The Illinois Supreme Court has ruled that "it is the capacity for earning income, rather than the income actually derived, which reflects 'fair cash value' for taxation purposes" (*Springfield Marine Bank v. Property Tax Appeal Board*, 44 Ill.2d 428, 256 N.E.2d 334., 1970). Thus, any income approach should provide evidence of market-derived income, vacancy, expenses, rate of return.
 - ii. All parties are advised that "Where the correctness of the assessment turns on market value and there is evidence of a market for the subject property, a taxpayer's submission that excludes the sales comparison approach in assessing market value is insufficient as a matter of law" (*The Cook County Board of Review v. Illinois Property Tax Appeal Board and Omni Chicago*, 1st App. Dist., 2014). Therefore, an income approach should not be submitted without a sales comparison approach unless evidence is also presented that there is not a market for the property in question.
- 9. Disclosure of Rental Data Required.** When an assessment complaint for an income-producing property is based on overvaluation and an income approach is submitted, the submission shall include the actual income and expense data of the property.
- a. Where the entire property is covered under a single lease, the entire lease shall be submitted as evidence.
 - b. Where multiple leases are in place, a full copy of at least one typical lease must be submitted; the Board will consider lease summaries, audited financial statements, rent rolls with totals for the remaining leases.
 - c. If the property is fully residential with six or fewer units, the complainant shall provide to the Board at the time of filing the operating statements, audits and all other pertinent information.
 - i. If the property has seven or more units or is of a non-residential use, the complainant shall submit, at the time of filing, income and expense statements for 2015, 2016, and 2017.
- 10. Occupancy.** Complaints based on occupancy should address market occupancy, not the property's occupancy alone (*Springfield Marine Bank v. Property Tax Appeal Board*, 44 Ill.2d 428, 256 N.E.2d 334., 1970). Therefore, if a complaint for reduced assessment is made based upon decreased occupancy, the complainant is required to provide an affidavit of occupancy for 2015, 2016, and 2017, as well as evidence of market rates of occupancy for the same years.

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E. Assessment Complaints Based upon Equity

1. **Definition.** Real property assessments shall be valued uniformly as the General Assembly shall provide 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 the assessment of similar properties.
2. **Burden of Proof.** When unequal treatment in the assessment process is the basis of the complaint, the inequity of the assessments must be proved by clear and convincing evidence.
3. **Evidence Considered.** If comparable properties are submitted as evidence for the complaint, it is preferable to use the best three (3) and these must be included with the original complaint. Additional comparables may be included at the discretion of the complainant.
4. **Comparable Properties.** Comparable properties should be located near the subject property and/or in the same subdivision. Comparable properties located farther from the subject property or in a different subdivision will be considered by the Board, but any party submitting such properties as comparable has the burden of proving that those are the most comparable ones available. However, in no instance will comparables from outside of Kane County be considered by the Board of Review for assessment complaints based upon equity. Comparables should be similar in size, construction, quality, age, style and condition to the subject property. Comparable properties offered in testimony that were not submitted with the original complaint will not be considered by the Board.
5. **Disclosure of Rental Data Required.** When an assessment complaint for an income-producing property is based on equity, the income and expense data of the property shall be submitted as evidence.
 - a. Where the entire property is covered under a single lease, the entire lease shall be submitted as evidence.
 - b. Where multiple leases are in place, the Board will consider lease summaries, audited financial statements, rent rolls with totals and representative samples of leases submitted may be submitted by the taxpayer.

F. Assessment Complaints Based upon Discrepancy in Physical Data

1. **Definition.** Discrepancy in physical data of the property includes, but is not limited to a substantial difference in the size of the site, size of the improvements, physical features, and locational attributes; the incorrect physical description must have been relied upon by the assessor in the valuation of the property and are shown on the assessor's property record card.
2. **Evidence.** Complaints based on the application of an incorrect physical description of a property shall include a copy of the property record card for the subject, a statement highlighting the incorrect data, and competent evidence (such as a plat of survey, photograph, or construction documents) of the correct data.
3. **Assessor Access to Property.** No taxpayer or property owner shall present for consideration, nor shall the Board accept for consideration, any testimony, objection, motion, appraisal critique or other evidentiary material that is offered to refute, discredit or disprove evidence offered by an opposing party regarding the description, physical

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characteristics or condition of the subject property when the taxpayer or property owner denied a request made in writing by the Township Assessor or intervening taxing body, prior to or during the time when the Board was accepting documentary evidence, to physically inspect and examine the property for valuation purposes. *Any motion made to invoke this rule shall incorporate a statement detailing the consultation and failed reasonable attempts to resolve differences over issues involving inspection with the taxpayer or property owner.*

G. Assessment Complaints Based upon Preferential Assessment

1. **Definition.** Preferential assessments are assessment procedures established by Article 10 of the Illinois Property Tax Code.
2. **Evidence.** Complaints alleging that a property qualifies for a preferential assessment under Article 10 shall 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, together with an explanation of why the property in question qualifies for such preferential assessment and the valuation sought by the complainant.

H. Corrections

1. **Definition.** A correction, when used by the Kane County Board of Review, is a request by a Township Assessor to revise and correct an equalized assessed value that has already been certified to the Board, or a correction made on the Board's own motion.
2. **Deadline.** The final filing date for Assessors' corrections shall be November 1, 2018 or the final filing deadline for taxpayer complaints for the township, whichever is later.
3. **Notice.** A notice thereof shall be sent to the taxpayer and assessor. A request for a hearing must be made within 14 calendar days of the date posted on the notice by contacting the Board office at the address and phone listed on the first page.
4. **Evidence.** For hearings regarding corrections, the Rules in sections C, D, E, F, and G apply; however, both the taxpayer/property owner and the Township Assessor may present evidence at the hearing without prior submission. Please note that Rule C.12.a is applicable to this process.

I. Certificates of Error

1. **Definition.** A Certificate of Error corrects a property tax bill that has already been issued. It is issued to correct "an error or mistake" in the assessment of the property "other than errors of judgment as to the valuation of the property" (See 35 ILCS 200/16-75). Bases for a Certificate of Error include:
 - a. Homestead exemptions for which a property was eligible but the exemption was not applied to the property tax bill.
 - b. Duplicate assessment.
 - c. Improvements damaged or destroyed.
 - d. Incorrect description of property assessed.
 - e. Approval of a non-homestead property tax exemption by the Department of Revenue if the property was eligible prior to the year for which it was approved (See 35 ILCS 200/14-25).

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2. **Submission.** In Illinois, taxpayers have neither a statutory nor a constitutional right to participate in a certificate of error procedure (See *Ball v. County of Cook*, 385 Ill.App. 3d at 105, citing *In re Application of the Cook County Treasurer for the 1968, 1973, 1980 & Other Tax Years*, 172 Ill. App. 3d 192, 199 (1988), citing, *Chicago Sheraton Corp. v. Zaban*, 71 Ill.2d 85 (1978)). The Courts have ruled that the certificate of error procedure is separate and distinct from the refund procedure available to the taxpayer (See *Ball*, 385 Ill. App. 3d at 105, citing *Chicago Sheraton Corp.*, 71 Ill. 2d at 91). The Supreme Court has held that “the General Assembly intended the certificate of error procedure to be an expeditious summary process, without participation by the taxpayer, for correcting the assessor’s errors.” (See *Chicago Sheraton Corp.*, 71 Ill. 2d at 91). Therefore, requests for Certificates of Error will be accepted only when submitted by Township Assessors or the Supervisor of Assessments. Additionally, the Board may issue a Certificate of Error on its own motion.
3. **Evidence.** A request for a certificate of error, when presented to the Board, must be accompanied by evidence of proof of “error in fact”. Failure to present proper evidence will cause non-concurrence by the Board.
4. **Limitations on Authority.** The authority to issue a Certificate of Error is limited by state law.
 - a. Except for Certificates of Error issued under 35 ILCS 200/14-25, the Certificate of Error must be issued “before judgment” for that particular taxable year (See 35 ILCS 200/16-75). The term *judgment* is a reference to the “annual application for judgment” that is in conjunction with the annual tax sale (See 35 ILCS 200/21-110, *et seq.*). This event typically takes place within 60 days of the due date for the second installment.
 - b. The Courts have ruled that neither Chief County Assessment Officers nor Boards of Review have authority to issue Certificates of Error after the annual application for judgment has passed (See *Fredericksen v. Armstrong*, 2015 IL App (2d) 100459 and *Source v. Armstrong*, 2014 IL App (2d) 090478).
 - c. The period in which a Certificate of Error may be issued automatically expires upon taxpayer filing an appeal to the Illinois Property Tax Appeal Board. (See 1977 Op. Atty. Gen. No. S-1307)
5. **Deadline.** In order to meet statutory deadlines, requests for Certificates of Error for the 2017 tax year must be filed with the Clerk of the Board between April 1, 2018 and October 1, 2018. Requests for Certificates of Error for the 2018 tax year cannot be considered by this Board of Review, and should not be submitted until the 2019 Board of Review convenes.

J. Omitted Property

1. **Authority.** The Board has the authority to place an assessment on omitted property (See 35 ILCS 200/9-265, *et seq.*).
2. **Notice.** If the Board initiates proceedings designed to place omitted property on the tax rolls, the Board shall give at least ten (10) business days written notice to the parties concerned advising them of the Board’s proposed action.

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K. Equalization

1. **Authority.** Subject to the restrictions of the property tax code, 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 (See 35 ILCS 200/16-60, et seq.).
2. **Procedure.** Petitions addressed to the Board regarding matters of equalization must show the class or classes of property, or the taxing jurisdictions that appear to be out of line with the general assessment level prevailing in the County. If such petitions of this character are to receive favorable consideration, they should be supported by assessment ratio data.

L. Homestead Exemptions

1. **Applications.** Applications for homestead exemption must be filed on forms furnished by the Clerk of the Board. All applications must be completely filled out and signed by the person claiming the exemption. Failure to comply will result in the application being returned.
2. **Notarization.** When noted on the form, applications must be notarized.
3. **Approval or denial.** The Clerk of the Board has full authority to act on the Board's behalf to approve or deny applications for homestead exemption. The Clerk may determine the eligibility of residential property to receive the homestead exemption by application, visual inspection, questionnaire, or other reasonable methods.
4. **Appeal of Denial.** Applications denied by the Clerk of the Board may be appealed to the Board of Review.
 - a. Appeals must be made in writing within 30 days of the issuance of the denial.
 - b. The Appeal must state all reasons why the applicant believes the denial to be in error, and include all evidence that the appellant wishes the Board to consider.
5. **Preliminary Decisions.** The Board of Review shall consider all evidence submitted by the appellant and issue a preliminary decision in the appeal without a hearing. The preliminary decision shall be in writing, shall summarize the evidence presented, and shall state the Board's reasoning for its decision.
 - a. The preliminary decision shall be transmitted to the appellant.
 - b. If the Appellant wishes to request a hearing before the Board, the appellant may do so in writing within ten (10) business days of the postmark date on the letter.
 - c. If no formal hearing is requested within 10 days of the preliminary decision, the preliminary decision will automatically become a final decision.
6. **Hearings.** The appellant will be given a minimum 30-day notice for formal hearings. At the Board's sole discretion, formal hearings may be before the full Board of Review or a single hearing officer. The hearing officer may be a member of the Board of Review or any other person designated by the Board. If heard by a single hearing officer, the decision will not be final until signed by a majority of the Board of Review.

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- 7. Appearance by Appellant.** The appellant may appear at the formal hearing either in person or by teleconference. In the event of a non-appearance by an appellant, the Board shall dismiss the appeal.
- 8. Evidence.** For formal hearings, the Rules in Section C apply; however, both the taxpayer/property owner and the Clerk of the Board may present evidence at the hearing without prior submission. Please note that Rule C.12.a is applicable to this process.
- 9. Deadline.** Final filing date for Homestead Exemptions shall be November 30 of the year for which the exemption is requested.

M. Non-Homestead Exemptions

- 1. Applications.** Applications for non-homestead exemption must be filed on forms furnished by the Department of Revenue. Parcel number must be on the application and all questions must be answered; failure to comply will result in the Petition being returned to the applicant. Failure to complete and provide all evidence will delay final decision.
- 2. Separate applications.** A separate fully completed application must be submitted for each parcel number, unless one legal description covers more than one parcel within the same township. Supporting documentation must be submitted for each application.
- 3. Affidavit of Use.** An Affidavit of Use must be submitted for all Applications for Property Tax Exemption except property for State of Illinois or U.S. Government.
- 4. Photographs.** Photographs (actual, not copies) must be submitted for all Applications for Property Tax Exemption.
- 5. Notarization.** Where applicable, applications should be notarized.
- 6. 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.
- 7. Deadline.** Final filing date for Non-Homestead Exemptions shall be before November 30, 2018.

N. Adoption

- 1. Adoption.** These rules and procedures are adopted for the 2018 session of the Kane County Board of Review as of April 30, 2018.

Kevin J. Schulenburg, RAA, Chairman
Michael E. Madziarek, CIAO, Member
Timothy J. Sullivan, MAI, SRA, Member
Mark D. Armstrong, CIAO, Clerk

Checklist Before Filing

- Did you completely fill out all applicable sections of your complaint form?
- Did you sign and date your complaint form?
- Did you include all the information that you want the Board to consider?
- Did you submit one (1) copy of the complaint form and one (1) copy of any supporting evidence?
- If you attached supporting evidence, did you use paper clips or binder clips (*no staples or other bindings can be used*)?
- If you want the Board of Review to decide based on the evidence you submitted so that you don't have to appear before the Board, did you check correct the box under your signature?
- Did you file the complaint by the deadline for your Township?
- If your property is in corporate ownership (including closely held LLCs), is your filing handled by an attorney?
- If you are an attorney filing on behalf of an owner or taxpayer, did you include a letter of authorization signed by the property owner or taxpayer?