

PROPERTY TAX APPEAL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Practice and Procedure for Appeals Before the Property Tax Appeal Board
- 2) Code Citation: 86 Ill. Adm. Code 1910
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1910.5	Amendment
1910.70	Amendment
- 4) Statutory Authority: 35 ILCS 200/Art. 7 and 35 ILCS 200/16-160 through 16-195
- 5) A Complete Description of the Subjects and Issues Involved:

Section 1910.5 – Construction and Definitions – Amended to provide a definition of "representation case."

Section 1910.70 – Representation at Hearings: Amended to preclude a State of Illinois legislator from participating in a representation case on any matter before the Property Tax Appeal Board. A State of Illinois legislator is also precluded from participating in a representation case before the Property Tax Appeal Board where the legislator receives compensation, directly or indirectly, through an interest in a partnership, limited liability corporation, or other business entity.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: These proposed amendments neither create nor expand any State mandate on units of local government, school districts or community college districts.

PROPERTY TAX APPEAL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:

Steven M. Waggoner
Acting Executive Director
Property Tax Appeal Board
Stratton Office Building, Room 402
401 South Spring Street
Springfield IL 62706

217/782-6076
fax: 217.785.4425
email: steve.waggoner@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: None

The full text of the Proposed Amendments begins on the next page:

PROPERTY TAX APPEAL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE
CHAPTER II: PROPERTY TAX APPEAL BOARDPART 1910
PRACTICE AND PROCEDURE FOR APPEALS
BEFORE THE PROPERTY TAX APPEAL BOARD

Section	
1910.5	Construction and Definitions
1910.10	Statement of Policy
1910.11	Rules of Order (Repealed)
1910.12	Meetings of the Board
1910.20	Board Information – Correspondence
1910.25	Computing Time Limits
1910.30	Petitions
1910.31	Amendments
1910.40	Board of Review Response to Petition
1910.50	Determination of Appealed Assessment
1910.55	Stipulations
1910.60	Interested Parties – Intervention
1910.63	Burdens of Proof
1910.64	Motion Practice – Service of Papers
1910.65	Documentary Evidence
1910.66	Rebuttal Evidence
1910.67	Hearings
1910.68	Subpoenas
1910.69	Sanctions
1910.70	Representation at Hearings
1910.71	Ex Parte Communications
1910.72	Informal Settlement Conference
1910.73	Pre-hearing Conference – Formal Settlement Conference
1910.74	Administrative Review
1910.75	Access to Board Records – Freedom of Information Procedures
1910.76	Board Publications – Distribution
1910.77	Withdrawals and Substitutions of Attorneys
1910.78	Consolidation of Appeals
1910.79	Policy on Discovery
1910.80	Forms
1910.88	Use of Facsimile Machines

PROPERTY TAX APPEAL BOARD

NOTICE OF PROPOSED AMENDMENTS

1910.90	Procedural Hearing Rules
1910.91	Business Records (Repealed)
1910.92	Rules of Pleading, Practice and Evidence
1910.93	Request for Witnesses
1910.94	Inspection of Subject Property – Effect of Denial by Taxpayer or Property Owner
1910.95	Service of Documents in Certain Cases
1910.96	Evidence Depositions
1910.98	Transcription of Hearings – Official Record
1910.99	Adoption of Evidence
1910.100	Severability

AUTHORITY: Implementing and authorized by Article 7 and Sections 16-180 through 16-195 of the Property Tax Code [35 ILCS 200/Art. 7 and 16-180 through 16-195].

SOURCE: Adopted at 4 Ill. Reg. 23, p. 106, effective May 27, 1980; codified at 8 Ill. Reg. 19475; amended at 13 Ill. Reg. 16454, effective January 1, 1990; amended at 21 Ill. Reg. 3706, effective March 6, 1997; amended at 21 Ill. Reg. 11949, effective August 13, 1997; amended at 21 Ill. Reg. 14551, effective October 27, 1997; amended at 22 Ill. Reg. 957, effective December 19, 1997; amended at 22 Ill. Reg. 16533, effective September 2, 1998; amended at 24 Ill. Reg. 1233, effective January 5, 2000; amended at 29 Ill. Reg. 13574, effective August 19, 2005; amended at 29 Ill. Reg. 21046, effective December 16, 2005; amended at 30 Ill. Reg. 1419, effective January 20, 2006; amended at 30 Ill. Reg. 2640, effective February 15, 2006; amended at 30 Ill. Reg. 7965, effective April 14, 2006; amended at 30 Ill. Reg. 10103, effective May 16, 2006; expedited correction at 30 Ill. Reg. 14633, effective May 16, 2006; amended at 30 Ill. Reg. 12280, effective June 30, 2006; amended at 30 Ill. Reg. 14148, effective August 11, 2006; amended at 30 Ill. Reg. 16311, effective September 29, 2006; amended at 31 Ill. Reg. 16222, effective November 26, 2007; amended at 32 Ill. Reg. 16864, effective October 1, 2008; amended at 33 Ill. Reg. 7910, effective July 1, 2009; amended at 38 Ill. Reg. 19171, effective October 1, 2014; amended at 41 Ill. Reg. 14020, effective December 1, 2017; amended at 42 Ill. Reg. _____, effective _____.

Section 1910.5 Construction and Definitions

- a) **Standards.** This Part is to be construed in accordance with the appropriate provisions of the Statute on Statutes [5 ILCS 70].
- b) **Definitions.** The following words and phrases, whenever used in this Part, include in their meaning the definitions set below:

PROPERTY TAX APPEAL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Board – Property Tax Appeal Board.
- 2) The Code – Property Tax Code [35 ILCS 200].
- 3) Real Property – *The land itself, with all things contained therein, and also all buildings, structures and improvements, and other permanent fixtures thereon, including all oil, gas, coal and other minerals in the land and the right to remove oil, gas and other minerals, excluding coal, from the land, and all rights and privileges belonging or pertaining thereto, except where otherwise specified by the Code. (Section 1-130 of the Code)*
- 4) Farm – *When used in connection with valuing land and buildings for an agricultural use, any property used solely for the growing and harvesting of crops; for the feeding, breeding and management of livestock; for dairying or for any other agricultural or horticultural use or combination thereof; including, but not limited to, hay, grain, fruit, truck or vegetable crops, floriculture, mushroom growing, plant or tree nurseries, orchards, forestry, sod farming and greenhouses; the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, ponies or horses, fur farming, bees, fish and wildlife farming. The dwellings and parcels of real property on which farm dwellings are immediately situated shall be assessed as a part of the farm. Improvements, other than farm dwellings, shall be assessed as a part of the farm and in addition to the farm dwellings when such buildings contribute in whole or in part to the operation of the farm. For purposes of this Part, "farm" does not include property which is primarily used for residential purposes even though some farm products may be grown or farm animals bred or fed on the property incidental to its primary use. The ongoing removal of oil, gas, coal or any other mineral from property used for farming shall not cause that property to not be considered as used solely for farming. (Section 1-60 of the Code)*
- 5) Fair Cash Value – 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. (Section 1-50 of the Code)
- 6) *PIN; Property Index Number; Permanent Index Number; Parcel Index Numbering – A number used to identify a parcel of property for assessment and taxation purposes. The index number shall constitute a*

PROPERTY TAX APPEAL BOARD

NOTICE OF PROPOSED AMENDMENTS

sufficient description of the property to which it has been assigned, wherever a description is required by the Code. "Property Index Number" and "Permanent Index Number" shall be construed to be interchangeable terms. (Section 1-120 of the Code)

- 7) *Taxing District; Taxing Body – Any unit of local government, school district or community college district with the power to levy taxes. "Taxing District" and "Taxing Body" shall be construed to be interchangeable terms. (Section 1-150 of the Code)*
- 8) Party, Interested Party – Either the contesting party, i.e., the appellant (owner, taxpayer or taxing district) or the board of review (appellee), or the intervenors (taxing district, owner or taxpayer).
- 9) Attorney – Any individual admitted to the practice of law in this State as set forth in the Attorney Act [705 ILCS 205].
- 10) Brief – A document that contains a summary of the facts, the pertinent case law and statutes, and an argument on how the laws apply to the facts supporting a particular position.
- 11) Quadrennial Assessment – *The general assessment of real property required by law to be made once every four years. (Sections 1-65, 9-215, 9-220 and 9-225 of the Code)*
- 12) *Triennial Assessment – In counties of 3,000,000 or more inhabitants, the general assessment of real property required by law to be made once every three years. (Section 9-220 of the Code)*
- 13) Notice of Decision or Order – A written notice of decision or order of the Property Tax Appeal Board in any appeal may be disseminated to all parties and all other authorities affected thereby by placing same in the U.S. mail with postage fully prepaid or made available by electronic means.
- 14) Certification of Decision or Order – Certification shall be deemed to be the later of:

PROPERTY TAX APPEAL BOARD

NOTICE OF PROPOSED AMENDMENTS

- A) the date the decision or order is placed in the U.S. mail with postage fully prepaid to the parties of record; or
 - B) the date the decision or order is transferred or made available by electronic means to the proper authorities.
- 15) Compulsory Sale –
- A) *the sale of real estate for less than the amount owed to the mortgage lender or mortgagor, if the lender or mortgagor has agreed to the sale, commonly referred to as a "short sale"; and*
 - B) *the first sale of real estate owned by a financial institution as a result of a judgment of foreclosure, transfer pursuant to a deed in lieu of foreclosure, or consent judgment, occurring after the foreclosure proceeding is complete. (Section 1-23 of the Code)*
- 16) *Representation Case – The professional representation of any person, client or principal, with or without compensation, in any matter before any State agency when the action or non-action of the State agency involves the exercise of substantial discretion. However, the term shall not include inquiries for information or other services rendered in a legislative capacity on behalf of a constituent or other member of the public. [5 ILCS 420/1-113]*
- c) All references in this Part to property record card shall be deemed to include, as a substitute, a property characteristic printout detailing the property's physical characteristics.
 - d) Interpretation. The definitions listed in this Section are intended only as an aid to interpretation of this Part.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 1910.70 Representation ~~at Hearings~~

- a) A party shall have the right to represent himself or herself and to be present at and participate in any hearing before the Property Tax Appeal Board. The right to participate shall include the rights to call, examine and cross-examine witnesses

PROPERTY TAX APPEAL BOARD

NOTICE OF PROPOSED AMENDMENTS

and to discuss any evidence properly submitted pursuant to this Part. A party may be represented at the hearing by any person who is admitted to practice as an attorney in this State, except as provided in subsection (g). Accountants, tax representatives, tax advisers, real estate appraisers, real estate consultants and others not qualified to practice law in this State may not appear at hearings before the Board in a representative capacity, and may not conduct questioning, cross-examination or other investigation at the hearing. However, those persons may testify at hearings before the Board and may assist parties and attorneys in preparation of cases for presentation by those parties and attorneys for the Board at hearings.

- b) As provided in subsection (a), only attorneys licensed to practice law in the State of Illinois shall be allowed to represent a party at a Property Tax Appeal Board hearing, except as provided in subsection (g).
- c) Corporations, limited liability companies (LLC), partnerships and other similar entities, and taxing districts shall be represented at all stages before the Property Tax Appeal Board by any person licensed to practice law in the State of Illinois, except as provided in subsection (g).
- d) The board of review may be represented at a hearing by the county state's attorney's office, any attorney licensed to practice law in the State of Illinois properly authorized as a special assistant state's attorney, or board of review members or commissioners or their duly authorized designees, except as provided in subsection (g).
- e) An attorney, pro se taxpayer (representing himself or herself), or board of review designee may enter an appearance either by signing the petition, a Request to Intervene, or other document initiating the participation of a party in a proceeding, or by filing an appearance in the proceeding, except as provided in subsection (g). By signing a petition or a Request to Intervene, or filing an appearance, the attorney, pro se taxpayer, or board of review designee certifies that he or she has the authority to appear and act on behalf of a party in the proceeding.
- f) An attorney shall avoid appearing before the Board on behalf of his or her client in the capacity of both an advocate and a witness. When an attorney is a witness for the client, except as to merely formal matters, the attorney should leave the hearing of the appeal to other counsel. Except when essential to the ends of justice, an attorney shall avoid testifying before the Board on behalf of a client.

PROPERTY TAX APPEAL BOARD

NOTICE OF PROPOSED AMENDMENTS

- g) No State of Illinois legislator shall participate in any way in any representation case on any matter before the Board. No State of Illinois legislator shall participate in a representation case in which the legislator receives any fee or compensation, directly or indirectly, through any interest in a partnership, limited liability corporation, or other business entity. In any case in which it is determined that a State of Illinois legislator is in violation of this subsection, the legislator shall be given 30 days to file a notice of withdrawal in accordance with Section 1910.77.

(Source: Amended at 42 Ill. Reg. _____, effective _____)