

# COOK COUNTY ASSESSOR'S OFFICE

## DEPARTMENT OF ERRONEOUS HOMESTEAD EXEMPTION ADMINISTRATIVE HEARINGS

### RULES OF PROCEDURE

#### **Section 1: Applicability**

These rules establish the Department of Erroneous Homestead Exemption Administrative Hearings, an independent department of the Cook County Assessor's Office ("Assessor's Office") authorized to conduct administrative hearings regarding erroneous homestead exemptions.

These rules apply to all administrative hearings concerning erroneous homestead exemptions conducted pursuant to Section 9-275 of the Illinois Property Tax Code (35 ILCS 200/9-275).

#### **Section 2: Definitions**

- (a) *Department* means the Department of Erroneous Homestead Exemption Administrative Hearings.
- (b) *Hearing Officer* or *Administrative Law Judge* may be used interchangeably and mean an attorney, licensed to practice law in the State of Illinois, with the authority to preside over an administrative hearing convened pursuant to Section 9-275 of the Illinois Property Tax Code.
- (c) *Property Owner* means the taxpayer, property owner or leasehold owner that received a homestead exemption upon a property.
- (d) *Property Tax Code* means the Illinois Property Tax Code, 35 ILCS 200, et seq.
- (e) *Day* means one (1) business day.

#### **Section 3: Hearing Officers — Powers and Duties**

Hearing Officers have all necessary powers to conduct fair and impartial hearings including, but not limited to, the power to:

- (a) Administer oaths and affirmations;
- (b) Hear testimony;
- (c) Rule upon motions, objections, and the admissibility of evidence;
- (d) Preserve and authenticate the record of the hearing and all exhibits and evidence introduced at the hearing;
- (e) Regulate the course of the hearing in accordance with the rules adopted by the Assessor's Office for the conduct of administrative hearings, or other applicable law; and
- (f) Issue an administrative decision of whether the Property Owner received an erroneous homestead exemption under Section 9-275 of the Property Tax Code, and if so, the amount for which the Property Owner is liable.

#### **Section 4: Rules and Regulations, Available for Public Inspection**

These rules are adopted pursuant to Section 9-275 of the Property Tax Code. The rules are published on the Assessor's Office website, [www.cookcountyassessor.com](http://www.cookcountyassessor.com), and kept on file at the Chicago location of the Assessor's Office, 118 North Clark Street, 3rd Floor, where they are available to the public for inspection and copying during normal business hours.

#### **Section 5: Notice**

Before any erroneous homestead exemption hearing may be conducted, the Assessor's Office will serve the person to whom the most recent tax bill was mailed and the taxpayer of record with a Notice of Intent to Record a Lien and a Hearing Request Form in compliance with Section 9-275 of the Property Tax Code. The Assessor's Office will send the Notice of Intent to Record a Lien and Hearing Request Form by regular and certified mail. A Property Owner may also obtain a Hearing Request Form from the Chicago location of the Assessor's Office and from its website.

#### **Section 6: Filings**

(a) *Hearing Requests.* To request a hearing, the Property Owner must use the appropriate Hearing Request Form and must fully complete and sign the form.

(b) *Filing Rules.*

- (1) Documents may be filed with the Department by mail, commercial carrier, messenger service, or personally at the Chicago location of the Assessor's Office. Filing by electronic transmission or fax will not be accepted, except when specifically requested or ordered by the Hearing Officer.
- (2) Filings received after 5:00 p.m. will be date-stamped the following business day.
- (3) Filings made by mail, including hearing requests, are timely if mailed on or before the last date for filing, as provided by Section 9-275 of the Property Tax Code or by these rules.
- (4) Any document filed must clearly show the property index number of the property at issue and docket number. The docket number is printed on the Notice of Intent to Record a Lien.

#### **Section 7: Notice of Hearing**

After receiving a Property Owner's completed Hearing Request Form, the Assessor's Office will serve a Notice of Hearing by regular mail to the address of the Property Owner as designated in the Hearing Request Form. A Notice of Hearing will include the time, date, and place of the hearing.

#### **Section 8: Erroneous Homestead Exemption Hearings**

(a) The Property Owner may represent him or herself or may be represented by an attorney.

- (b) Prior to the hearing, an attorney who appears on behalf of a Property Owner must file with the Department a completed appearance form provided by the Department for such purpose.
- (c) The Hearing Officer may grant continuances or postponements only upon a finding of good cause.
  - (1) Examples of good cause include the unavailability of the Hearing Officer, Property Owner, attorney, or witness due to an accident, illness or other circumstances beyond the person's control.
  - (2) If practicable, notice of any continuance or postponement will be given in writing (including email) to all parties to the hearing within a reasonable time in advance of the previously scheduled hearing date.
- (d) All testimony must be given under oath or affirmation.
- (e) No erroneous homestead exemption may be established except upon proof by a preponderance of evidence. The Assessor's Office will provide prima facie evidence of the existence of an erroneous homestead exemption. The Assessor's Office may present evidence through a statement certified under the penalty of perjury. The Property Owner may submit evidence to rebut the finding of an erroneous homestead exemption. Upon the timely request of any party to the proceeding, any person the Hearing Officer determines may reasonably be expected to provide material and non-cumulative testimony must be made available for examination prior to a final determination of erroneous homestead exemption. The failure of a party to make such person available may result in an adverse inference as to the person's testimony.
- (f) Official notice may be taken of any material fact not appearing in the evidence in the record. The expertise, technical competence and specialized knowledge of Assessor's Office personnel may be utilized in the evaluation of the evidence, provided that this expertise and knowledge is not obtained by means of an ex parte communication.
- (g) Upon conclusion of a hearing, the Hearing Officer will issue a final determination of a finding of "liable" or "not liable." If the Hearing Officer issues a determination of "liable," the Hearing Officer will state the amount for which the Property Owner is liable for the erroneous homestead exemption(s) pursuant to Section 9-275 of the Property Tax Code.
- (h) In the issuance of a final determination of erroneous homestead exemption, the Hearing Officer will inform the Property Owner of his or her right to seek judicial review of the final determination.

**Section 9: Ex Parte Communications**

No Property Owner, attorney, interested party or representative of the Assessor's Office may engage in any ex parte communication with a Hearing Officer regarding matters pending before the Hearing Officer. However, representatives of the Assessor's Office may engage in communications with the Property Owner outside the presence of the Hearing Officer.

The Hearing Officer may not initiate ex parte communications, directly or indirectly, in connection with any substantive issue pertaining to a case pending before the Hearing Officer, with any Property Owner, attorney, interested party or representative of the Assessor's Office.

## **Section 10: Recusal**

A Hearing Officer must recuse him or herself from hearing a matter for reason of conflict of interest and may at any time recuse him or herself for other cause. If a Hearing Officer recuses him or herself, the Department shall appoint another Hearing Officer who will conduct the hearing as soon as practicable, within the time limits established in Section 9-275 of the Property Tax Code.

## **Section 11: Conduct at Hearings**

Disruptive conduct at any hearing before the Hearing Officer will be grounds for exclusion from the hearing.

If a witness or a party refuses to answer a question after being directed to do so, the Hearing Officer may make such orders with regard to the refusal as are just and appropriate, including but not limited to, excluding the testimony of witnesses, or entering an order that certain facts are deemed admitted for purpose of the proceeding.

## **Section 12: Default**

- (a) If at the time of the hearing the Property Owner named in a Notice of Intent to Record a Lien, or his or her attorney of record, fails to appear, the Hearing Officer may find the Property Owner in default and, thus, will issue a finding of “liable.”
- (b) A Property Owner found to be in default may, within twenty (20) days after the issuance of the order of default, petition the Hearing Officer to set aside the order.
- (c) A Hearing Officer may set aside any order of default if he or she determines that the Property Owner's failure to appear at the hearing was for good cause or, at any time, if the Property Owner establishes that they were not provided with service. If the petition is granted, the Department will proceed with a new hearing as soon as practicable.

## **Section 13: Record**

The Department will keep a full and complete record of all hearings. The record will consist of the following:

- (a) All notices and responses to those notices;
- (b) A transcript or audio recording of the hearing, if any, and all evidence received;
- (c) Any offers of proof, objections and rulings on that proof; and
- (d) Any findings, decision, opinion or report by the Hearing Officer.

The failure of the Department to maintain any such record will not prevent the Assessor’s Office or Property Owner from filing a petition for administrative review.

#### **Section 14: Briefs**

The Hearing Officer may require or permit parties to submit written briefs within ten (10) days after the close of the hearing or other reasonable time as the Hearing Officer determines is consistent with the Department's responsibility for an expeditious decision. Unless otherwise allowed by the Hearing Officer, no brief may exceed ten (10) double-spaced pages in 12-point font.

#### **Section 15: Decision of the Hearing Officer**

The Department will provide the Property Owner, either in person or by mail, with a copy of the Hearing Officer's decision on whether homestead exemption(s) applied to a property are erroneous pursuant to Section 9-275 of the Property Tax Code.

#### **Section 16: Review under the Administrative Review Law**

Pursuant to Section 9-275 of the Property Tax Code and the Administrative Review Law, 735 ILCS 5/3-101, et seq., any final decision by the Department that an erroneous homestead exemption does or does not exist will constitute a final determination for purposes of judicial review.

#### **Section 17: Effective date**

These rules take effect February 26, 2014.