**Section 395.313 Evidence**

a) A party shall be entitled to present its case by testimonial or documentary evidence, to submit rebuttal evidence, *and to conduct* *cross-examination as may be required for a full and fair disclosure of facts*. [5 ILCS 100/10-40(b)] Testimonial evidence shall be taken only on oath or affirmation. Any cross-examination shall be limited to the scope of the direct examination.

b) The rules of evidence and privilege that apply in civil cases in Illinois circuit courts shall be followed. However, evidence not admissible under those rules may be admitted (unless precluded by statute) if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. [5 ILCS 100/10-40(a)]

c) The Chairman shall have the discretion to determine whether evidence being offered is reliable and whether the evidence should be admitted. The Chairman may exclude evidence that is irrelevant, immaterial or unduly repetitious. (See 5 ILCS 100/10-40(a).)

d) *Subject to* the *requirements* of this Subpart, *when a hearing will be expedited and* *the interest of the parties will not be prejudiced*, the Chairman may allow *evidence to be received in written form*. [5 ILCS 100/10-40(a)]

e) If a party objects to the admission or rejection of any evidence or to the limitation to the scope of any examination or cross-examination, or to the failure to limit that scope, that party shall state briefly the grounds for the objection. Rulings on all objections shall appear in the record.

f) Official Notice: Official *notice may be taken* of any material fact not appearing in evidence in the record if *the circuit courts of this State* could *take judicial notice* of the fact. In addition, *notice may be taken of generally recognized technical or* *scientific facts within the Board's specialized knowledge. Parties shall be notified either before or during the hearing of the material noticed, including any memoranda or data prepared by IHDA staff, and the parties shall be afforded an opportunity to contest the facts noticed. The experience, technical competence and specialized knowledge of the Board and IHDA may be utilized in the evaluation of the evidence*. [5 ILCS 100/10-40(c)]

g) Types of Evidence: The Board shall hear evidence only as to matters actually in dispute. Factual areas in which evidence may be heard if it is relevant to issues in dispute include, but are not limited to, the following:

1) health, safety and the environment

A) structural soundness of the proposed buildings;

B) adequacy of sewage arrangements;

C) adequacy of water drainage arrangements;

D) adequacy of fire protection;

E) adequacy of the Affordable Housing Developer's proposed arrangements for dealing with traffic circulation within the site, and feasibility of arrangements that could be made by the Local Government for dealing with traffic generated by the proposed housing on adjacent streets;

F) proximity of the proposed site to airports, industrial activities or other activities that may affect the health and safety of the occupants of the proposed housing;

2) site and building design

A) height, bulk and placement of the proposed housing;

B) physical characteristics of the proposed housing;

C) height, bulk and placement of surrounding structures and improvements;

D) physical characteristics of the surrounding land;

E) adequacy of parking arrangements;

F) adequacy of open areas, including outdoor recreational areas, proposed within the building site;

3) open space

A) availability of existing open spaces in the Local Government;

B) current and projected utilization of existing open spaces and consequent need, if any, for additional open spaces, by the Local Government's population, including occupants of the proposed housing;

C) relationship of the proposed site to any Local Government open space or outdoor recreation plan officially adopted by the applicable corporate authorities of the Local Government, and to any official actions to preserve open spaces taken with respect to the proposed site by the Local Government prior to the date of the Affordable Housing Developer's initial submission; the inclusion of the proposed site in the open space or outdoor recreation plan shall create a presumption that the site is needed to preserve open spaces unless the Affordable Housing Developer produces evidence to the contrary;

D) relationship of the proposed site to any regional open space plan prepared by the applicable regional planning agency;

E) current use of the proposed site and of land adjacent to the proposed site;

F) inventory of site suitable for use as open spaces, and available for acquisition or other legal restriction as open spaces, in the Local Government, provided that the Board shall admit no evidence of any open space plan adopted only by the local conservation commission or other local body but not officially adopted by the planning board/commission;

4) municipal planning

A) a Local Government's master plan, comprehensive plan or community development plan; and

B) the results of the Local Government's efforts to implement those plans;

5) The uniform application, or lack thereof, of any impact fees, building permit fees and any other local fees.

(Source: Amended at 43 Ill. Reg. 11314, effective September 26, 2019)