Property Tax Assessments and Appeals to Municipal Boards of Review

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Lawyers frequently are asked about property tax appeals. It’s useful to have something quick and helpful to say. Property owners have a hard time winning these appeals because they are ill-prepared. Let’s help our friends and neighbors even the playing field.

Property owners pay real property tax to fund the operations of taxing jurisdictions: the state, Milwaukee County, the Milwaukee Area Technical College, the Milwaukee Metropolitan Sewerage District, our school districts, and of course the municipality. The municipality is called the taxation district—it levies and collects tax for the various taxing jurisdictions. The amount of tax is based on the value of the property multiplied by the tax rate, expressed in terms of dollars per $1,000 of value and commonly referred to as the “mill rate.”

The municipal assessor is responsible for determining the January 1 market value of each property in the municipality annually. Wis. Stat. § 70.32(1). The assessor considers information from many sources. In the event of a recent sale, new construction, new or remodeled improvements, or a revaluation (the determination of new values for all properties), the assessor may want to inspect the property. If a property owner denies the assessor entry, the assessor values the property using the best available evidence. Other evidence of a property’s value includes a recent sale, comparable property sales, location, depreciation, legal restrictions, and general economic changes in the community.

City, village, and town Boards of Review (BOR) are responsible for hearing cases alleging incorrect real property valuations and correcting any errors it discovers in the tax roll. BOR procedures are described in Wis. Stat. § 70.47. The BOR convenes annually, with the first meeting in May or early June.¹

If property owners object to a change in assessment, they can seek a review by the BOR. It is a quasi-judicial body: members sit as judges to hear evidence. Generally, members are determined by ordinance and review by the BOR. It is a quasi-judicial body: members sit as judges to hear cases alleging incorrect real property valuations and correcting any errors it discovers in the tax roll. BOR procedures are described in Wis. Stat. § 70.47. The BOR convenes annually, with the first meeting in May or early June.¹

Whenever the assessor changes the total assessment the owner must be notified in writing at least 15 days before the BOR convenes. The notice contains information about the upcoming BOR meeting and procedures for objecting to the assessment.

A property owner can and probably should contact the assessor directly to discuss the matter. Issues are often resolved through this informal process.

A property owner unable to meet with the assessor can attend what’s called the “open book.” This is a specified date and time, before the BOR convenes, when the completed assessment roll is open for examination. The assessor is present and is allowed to make any changes necessary to perfect the assessment roll.

A property owner who continues to object may formally appeal the assessment to the BOR by:

- Providing written or oral notice of intent to appeal to the BOR clerk at least 48 hours before the first scheduled BOR meeting.
- Filing a signed form of objection to property assessment with the clerk within the first two hours of the BOR’s first scheduled meeting.

If the form of objection is proper, the BOR will schedule a hearing and provide at least a 48-hour notice of the hearing to the objector, the municipal attorney who is present as an advisor to the BOR, and the assessor, unless 48-hour notice is waived by all parties.

The BOR does not independently determine valuations, nor does it adjust valuations on any basis other than the sworn testimony provided. It reviews written and oral testimony provided at the hearing, which is the sole basis for finding a valuation to be in error.

It’s often difficult to prevail because the BOR is required to accept the assessor’s assessment as correct absent competent sworn testimony, not contradicted by other evidence, which proves the assessment is incorrect. In practice, this means that sworn testimony should be supported by documentary evidence that the property is over-assessed compared to sales in the municipality or other relevant data. The BOR may accept sworn written statements and sworn testimony by telephone in limited circumstances.

Documentary evidence could include a recent arm’s-length sale of the subject property, an appraisal of the property, or recent sales of comparable properties. Information presented on comparable properties must be adjusted to the subject property as appropriate. The BOR considers all testimony relating to value, such as size and location of the lot, size and age of the building, original cost, depreciation and obsolescence, zoning restrictions and income potential, presence or absence of various building components, and any other conditions affecting the property’s market value.

It should be noted that while the assessor determines separate values for land and improvements, the BOR can only consider the total value of the property.

As mentioned, the BOR adjusts value based solely on the testimony presented. Parties are allowed to cross-examine each other. The BOR may question the parties as part of the hearing during the testimony phase. All deliberations are conducted in open session.

Several statutory options exist for appealing BOR determinations. Each has very specific procedural requirements. The most commonly invoked is a certiorari petition to the circuit court. The circuit court limits its review to the BOR record. See Wis. Stat. § 70.47(13).

A second option is a claim of excessive assessment. This involves paying the tax up front, filing a claim with the municipality, going before the BOR, seeking review by the governing body, and then filing an action in circuit court. A circuit court exercises de novo review and can conduct a court trial. See Wis. Stat. § 74.37.

A third option, if a variety of requirements are met, is an administrative appeal to the Department of Revenue. See Wis. Stat. § 70.85.

Here are key tips and things to know about the process of challenging an assessment:

- An objector may designate a representative to appear on the objector’s behalf.
- The best evidence of value is generally a recent sale price of the subject property or recent sale prices of comparable properties.

¹ Filing a signed form of objection to property assessment with the
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OSHAs updated healthcare WPV policy is not a “one-size fits all” model. Instead, it encompasses prevention strategies based on epidemiological studies that include physical site assessment to identify high-risk areas (e.g., high volume areas, unrestricted access points, poor lighting, isolated areas), identification of hazards and other risk factors (e.g., inadequate healthcare staffing, inadequate security staffing, inadequate staff training, long wait times, increased use of emergency departments for psychiatric treatment, increased presence of gangs, increased presence of armed private citizens), and implementation of well thought-out policies that consider the broad range of patients and others entering the doors. It is probably time for OSHA to let go of the “zero tolerance” description.

Many thanks to Dick Sem, CPP CSC, and Dr. James McGee for their willingness to be interviewed for this article; and to Rachael Wolfe, Marquette University Law School student and MCW risk management intern, for the legal research.

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Sheridan and Jonathan Wertz, J.D., R.N., jwertz@mcw.edu, Director of Clinical Risk Management at the Medical College of Wisconsin, will join Robert J. Martin (Senior Advisor at Gavin de Becker & Associates and Principal at RJM Training and Consulting) and James McGee, Ph.D. (Director of Forensic Psychological Services for Gavin de Becker & Associates) to present “Threat Assessment and Management with a Healthcare Focus,” an in-depth seminar, November 2-4, 2016 (13.5 WI CLE hours, 2 CHPA credits, 11.5 CPHRM credits, 11 MN POST credits; the HR Certification Institute has pre-approved this activity for recertification credit towards the aPHR®, PHR®, PHRca®, SPHR®, GPHR®, PHRi® and SPHRi® certifications). More details can be found at http://www.mcw.edu/FileLibrary/Groups/Compliance/KohlerTAMSeminarBrochure2016.pdf.

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(aadjusted to the subject property).

• A property owner will be barred from having a hearing or contesting an assessment if the owner refused the assessor the right to inspect the property after reasonable request was made by certified mail.

• If a property owner presents a written appraisal as evidence of value, the property owner should have the appraiser present sworn testimony in support of the appraisal. A property owner should present an appraisal for value—not an appraisal for financing or an estimate of value.

• It is essential that all forms are completely and accurately filled out.

• The BOR has the authority, usually invoked for complex appeals, to waive a BOR hearing and allow a property owner an appeal directly to the circuit court. The property owner may seek this bypass by timely filing a Request for Waiver form.

Property assessments are meant to be fair to all property owners. Objectors can enhance their chances of success by understanding and adhering to the rules, and by arming themselves with convincing evidence.

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City of Milwaukee residents must go through an intermediate step: filing an objection with the Board of Assessors. This body serves as a first level of appeal and screens cases for the BOR. A board of assessors normally does not hold a formal hearing.


2Gavin de Becker & Associates is a firm that protects people who are at risk, advises on the assessment and management of situations that might escalate to violence, and develops strategies for improving safety and privacy.

3Personal interview with James McGee, Ph.D. (March 2016).


5The five states are Connecticut, Maryland, Massachusetts, New Mexico, and Tennessee.


8Gavin de Becker, Protecting the Gift (New York, Dell Publishing, 1999) (see Ch. 5, “Talk to Strangers,” where the author discusses the importance of parents teaching children how to select a stranger to talk to, should they ever find themselves alone and in need of help).


10Id.

11Scott Shafer, “Five Years After a Murder, California Hospital Still Struggles With Violence,” KQED (October 20, 2015).

12Id.

13Id.