Wisconsin Department of Revenue

2020 Guide for Board of Review Members

(R. 4-20)

Table of Contents

I. Guide Information 4

See Wisconsin Department of Revenue web page for current Property Assessment and Taxation Information on COVID-19.

II. Board of Review (BOR) Profile 4

III. Assessment Roll 5

A. Assessment roll open for public review 5

B. Incomplete assessment roll 5

IV. BOR Meeting 5

A. First BOR meeting 5

B. BOR meeting location 6

C. BOR meeting time frame 6

D. Length of BOR meeting 6

V. Hearings 6

A. Notice 6

B. Participants 8

C. General procedures at the BOR 9

VI. Duties 10

A. BOR clerk 10

B. BOR chairperson 11

C. Municipal attorney 11

VII. Assessor and Property Owner Responsibilities 12

A. Assessor 12

B. Property owner 13

VIII. BOR Appeals 13

A. Property owners/objectors filing an appeal 13

B. BOR and appeals 14

C. Appeal time frame 14

D. BOR members appeal their own assessments 14

E. BOR can adjust an assessment even if an owner did not complain about it 15

F. Property owners cannot appeal part of their assessment 15

G. Property owners can appeal the classification of their property 15

IX. Presentation of Evidence 17

A. Presumption of correctness 17

B. Evidence available to the BOR 17

C. All testimony must be given under oath 17

X. BOR Decisions 18
- A. Reaching a decision 18
- B. End of BOR hearing 18

XI. Appealing a BOR Decision 19
- A. Appeal options 19
- B. Appealing a circuit court decision to a higher court 20
- C. Appealing a court of appeals decision to a higher court 20

XII. BOR Flowchart 21

XIII. BOR Legal Authority 22
- A. BOR's primary duties 22
- B. BOR authority 22
- C. BOR members are subject to penalties for misconduct 22

XIV. Wisconsin Acts, Statutes, Case Law, Performance and Technical Standards 23
- A. Wisconsin Acts 23
- B. Statutes and case law 24
- C. Performance and technical standards 24

XV. BOR Court Case Decisions 25
- A. General 25
- B. Procedures 26
- C. Organization 26
- D. Notice 27
- E. Objections 28
- F. Sworn oral testimony 28
- G. Assessor presumed correct 29
- H. Witnesses 29
- I. Evidence 30
- J. Appeals 32

XVI. Glossary 33

XVII. BOR Statutory Index 37

XVIII. Further Appeal Procedures 39

XIX. Contact Information 40

I. Guide Information

The purpose of this guide is to assist Board of Review (BOR) members in Wisconsin understand their statutory duties. This guide contains:

- Topical index of responsibilities and procedures
- Flowchart of BOR functions
- Related court cases
- Statutory index
- Glossary of property tax terms

II. Board of Review (BOR) Profile

BOR membership

The BOR membership depends on the municipality – town, village or city (First-class or others).

1. Town BOR members

- Town supervisor
- Town clerk (if elected to the office of town clerk under state law (sec. 70.46(1m), Wis. Stats.))
- Other members by ordinance

2. Village BOR members

- President
- Village clerk
- Other members by ordinance

3. First-class city BOR members

- Between five and nine residents of the city
- BOR members are appointed by ordinance
- Members cannot hold public office or be publicly employed
- Members are appointed by the mayor with approval by the common council and hold office for staggered five-year terms

4. City other than First-class BOR members

- Mayor
- City clerk
- Other members by ordinance

Note: Any BOR for the above municipalities can also include citizens, public officers or public employees. The assessor cannot be a member of the BOR. The governing body must select a substitute member if the assessor is initially identified as a member through holding another office.

III. Assessment Roll

A. Assessment roll open for public review

The assessment roll becomes a public document after the assessor completes the roll and is delivered to the municipal clerk (in Milwaukee, to the commissioner of assessments). At least 15 days before the roll is open for examination, the clerk publishes a notice with the days the assessment roll will be open for review.

B. Incomplete assessment roll

If the assessment role is not completed by the fourth Monday in April or the 45 days thereafter, the BOR must:

- Hold an initial meeting during the 45-day period
- Adjourn until the roll is completed
- BOR clerk must post a written notice on the meeting place door, including the date and time the BOR will resume meeting
- When the roll is completed, the BOR must be in session the hours required by statute or as established by ordinance

IV. BOR Meeting

A. First BOR meeting

1. Hold a minimum of seven days after the assessment roll is open for examination under sec. 70.45, Wis. Stats. (sec. 70.47(1), Wis. Stats.)
2. Select a chairperson and vice-chairperson
3. Verify at least one member met the mandatory training requirements under state law (sec. 70.46(4), Wis. Stats.)
4. Verify the municipality or county has an ordinance for the confidentiality of income and expense information provided to the assessor under state law. No person can appeal to the BOR if the value was made by assessor using the income method unless no later than seven days before the first meeting, the person supplies to the assessor all information about income and expenses. Information provided under this statute is not subject to right of inspection and copying unless a court determines before the first meeting of the BOR that information is inaccurate (sec. 70.47(7)(af), Wis. Stats.).
5. Receive the assessment roll and sworn statements from the clerk
6. Examine the roll, correct description or calculation errors, add omitted property, and eliminate double assessed property
7. Certify all corrections of error under state law (sec. 70.43, Wis. Stats.)
8. Verify with the assessor that open book changes are included in the assessment roll
9. Be in session for at least two hours
10. Allow taxpayers to examine assessment data
11. Schedule hearings for written objections
12. During the first two hours, grant:
    - Waivers of the required 48-hour notice of intent to file an objection when there is good cause
    - Requests for waiver of the BOR hearing allowing the property owner an appeal directly to circuit court
    - Requests to testify by telephone or submit sworn written statement
13. Hear written objections if notice was given by the BOR to the property owner and assessor at least 48 hours earlier, or if both waive the 48-hour notice requirement
14. Create a new hearing schedule for written objections filed but not heard

If the BOR finds a problem with uncontested property, it should:

- Notify the owner or agent of the BOR's intent to review the assessment, and the date, time, and place of the hearing
- Subpoena witnesses necessary to testify on the value of the property
- Conduct the hearing according to the procedure established under state law (sec. 70.47(8), Wis. Stats.)

B. BOR meeting location

1. Towns and villages

BOR should meet in the Town/Village Hall, or a place designated by the Town/Village Board. If no such hall exists, the BOR should meet at the clerk's office or at the place where the last annual Town/Village meeting was held.

2. Cities other than First-class

BOR should meet at the Council Chamber or a place designated by the Council.

3. First-class cities

BOR should meet at the place designated by the Commissioner of Assessments.

C. BOR meeting time frame

Municipal BOR must meet:

- Annually
- Anytime during the 45-day period beginning on the fourth Monday in April
- A minimum of seven days after the assessment roll is open for examination under sec. 70.45, Wis. Stats.

D. Length of BOR meeting

Each BOR must be in session at least two hours. If the municipal governing body (by ordinance or resolution) designates other meeting hours, the BOR session can vary from these guidelines. If this is done, the BOR may schedule a meeting time between 8:00 a.m. and 12 midnight with the meeting being at least two hours long.

After the first meeting, the BOR may then adjourn at its own discretion from time to time, until its business is completed. Whenever the BOR adjourns for more than one day, the clerk must post a written notice on the meeting place door, stating the date and time the BOR will resume meeting.

V. Hearings

A. Notice

1. Municipal clerk publishes a notice that includes the following under state law (sec. 70.47(7)(aa), (ac), (ad), (ae) and (af), Wis. Stats.):

- Time and place of the first meeting
- Sec. 70.47(7)(aa), Wis. Stats., provides that the BOR may deny a hearing to a property owner who does not allow the assessor to complete an exterior view. However, the Wisconsin Supreme Court expressed due process concerns regarding a similarly worded statute in *Milewski v. Town of Dover,* 2017 WI 79, 377 Wis. 2d 38, 899 N.W.2d 303. It is DOR's recommendation to allow a BOR hearing even if the property owner denied an interior or exterior view. The lack of access to view, and the credibility of evidence offered can be managed as an evidentiary issue at a BOR hearing, rather than denying access to the BOR.
- After the first BOR meeting and before the BOR's final adjournment, no person who is scheduled to appear before the BOR may contact, or provide information to, a member of the BOR about that person's objection except at a BOR session

- No person may appear before the BOR, testify to the BOR by phone or contest the amount of any assessment unless, at least 48 hours before the first meeting of the BOR or at least 48 hours before the objection is heard if the objection is allowed under sub. (3)(a), that person provides to the BOR clerk a notice as to whether the person will ask for removal under sub. (6m) and if so which member will be removed and the person's reasonable estimate of the length of time that the hearing will take
- When appearing before the BOR, the person must specify in writing, his or her estimate of the land value and improvements that he or she is objecting and the person must specify the information that he or she used to arrive at that estimate
- No person may appear before the BOR, testify to the BOR by phone or object to a valuation; if that valuation was made by the assessor or the objector using the income method; unless no later than seven days before the first meeting of the BOR the person supplies to the assessor all of the information about income and expenses, as specified in the manual under sec. 73.03(2a), Wis. Stats., that the assessor requests. The municipality or county shall provide by ordinance for the confidentiality of information about income and expenses that is provided to the assessor under this paragraph and shall provide exceptions for persons using the information in the discharge of duties imposed by law or of the duties of their office or by order of a court. The information that is provided under this paragraph is not subject to the right of inspection and copying under sec. 19.35(1), Wis. Stats., unless a court determines before the first meeting of the BOR that the information is inaccurate.

2. Posting notice under sec. 70.47(2), Wis. Stats.

At least 15 days (30 days in revaluation years) before the first session, a municipality with an official newspaper must publish a class 1 notice under Ch. 985 with the time and place of the first meeting. If a municipality is not required to and does not have an official newspaper, the clerk may, in lieu of newspaper publication:

- Post the notice in at least three public places likely to give notice to persons affected, *or*
- Post in at least one public place likely to give notice to persons affected and placed electronically on an Internet site maintained by the municipality

The notice posted before the act or event requiring notice shall be posted and, if applicable, placed electronically, no later than the time specified for the first newspaper publication.

If adjournment is for more than one day, the clerk must post a notice of the adjournment on the outer door of the meeting place, stating when the meeting will reconvene.

Note: 2019 Wisconsin Act 185 created sec. 70.47(3)(aL)(2)., Wis. Stats. Under the new law, regardless if the 2020 assessment roll is completed at the time of the 45-day period beginning on the 4th Monday of April, the BOR may publish a class 1 notice under Ch. 985 that the BOR has adjourned and will proceed under sec. 70.47(2), Wis. Stats., when the BOR conducts the first session.

3. Posting Notice Under the Open Meeting State Law, Sec. 19.84(1), Wis. Stats.

The clerk must provide notice of the meeting (1) to those news media who have filed a written request for such notice and (2) to any official newspaper, or if none exists, to a news medium likely to give notice in the area.

The clerk shall also post a notice to the public using one of the following methods:

- Posting a notice in at least three public places likely to give notice to persons affected
- Posting a notice in at least one public place likely to give notice to persons affected and placing a notice electronically on the governmental body's Internet site
- By paid publication in a news medium likely to give notice to persons affected

4. Notifying property owners of hearing

BOR clerk must notify property owners of the time and place of their hearing

- After receiving an objection, the BOR must establish a time for hearing the objection
- The BOR clerk must give the objector and the assessor at least 48-hour notice before the hearing
- When all parties are present and waive this notice in the minutes, the hearing may be held immediately
- If a scheduled hearing cannot be heard at the session, then a minimum 48-hour notice of the new scheduled time must be given

5. Municipal clerk notifies property owner of the time and place of a remanded BOR hearing

When any BOR case is remanded, the municipal clerk must post a notice in the same manner as a regular BOR meeting.

Note:

- A remanded case is sent back to a lower judicial or a quasi-judicial body with instructions for further proceedings
- Only a case remanded back to the BOR by a court order can be heard by the reconvened BOR. No additional new cases can be heard at a reconvened BOR.

B. Participants

1. BOR meetings are open to the public

BOR meetings are open to the public. No formal action of any kind may be introduced, deliberated on or adopted at any BOR closed session.

2. Attendees at a BOR hearing

BOR will have the following attendees:

- Assessor
- Objector (or agent), unless because of medical reasons, objector is testifying by phone
- BOR members

Other people who may attend:

- Municipal attorney
- Objector's attorney
- Assessor's attorney
- Municipal clerk, if not a member of the BOR

At least two BOR members must attend any hearing of evidence. If a member(s) is removed from the Board, at least three members must attend the hearing, under state law (sec. 70.47(6m), Wis. Stats.). In either case, the BOR must record and share the evidence with a quorum before a determination.

3. Removing a member

Except for a first or second class city, the municipality must remove a member from a hearing for any of the following reasons:

- Objector provides a timely written or oral notice of intent to file an objection and requests the removal. No more than one member of the BOR can be removed under state law (sec. 70.47(6m), Wis. Stats.)
- BOR member has a conflict of interest under an ordinance of the municipality in regard to the objection
- BOR member has a bias in regard to the objection and a party requests the removal of that member for a bias. The party must submit an affidavit with the request stating the party believes the member has a personal bias or prejudice against the party and stating the nature of that bias or prejudice.

- BOR member would violate state law (sec. 19.59, Wis. Stats.), by hearing an objection recuses himself or herself from that hearing. The municipal clerk must provide DOR an affidavit declaring whether the requirement under this paragraph is fulfilled.
- If a member(s) is removed or recused under this law, the BOR may replace the member(s) or its remaining member(s) may hear the objection. No fewer than three members may hear the objection.

4. Definition of a quorum

A majority of BOR members is a quorum.

5. Number of BOR members required to hold a hearing

Two BOR members are required to hold a hearing. An exception is when a BOR member is removed. If this occurs, three members are required to hold the hearing.

6. Number of BOR members required to make a determination

A quorum is required to make a determination. The BOR cannot make a determination until the quorum reviews the evidence. If there is a tie vote, the assessor's valuation is considered correct.

BOR member has to do one of the following to vote:

- Attend the hearing of evidence
- Receive a transcript of the hearing no less than five days before the meeting and read the transcript
- Receive a mechanical recording of the evidence no less than five days before the meeting and listen to the recording
- Receive a copy of a summary and all exceptions no less than five days before the meeting and read the summary and exceptions

Note: A "summary" means a written summary of the evidence prepared by one or more BOR member attending the hearing of evidence. This summary is distributed to all BOR members and all parties to the contested assessment. "Exceptions" mean written exceptions to the summary of evidence filed by parties to the contested assessment.

C. General procedures at the BOR

The BOR hears under oath all persons who appear before it. The BOR can take evidence by phone from ill or disabled persons who have presented a letter from a physician, surgeon, or osteopath that confirms their illness or disability.

1. BOR hearing proceeds as follows:

a. Clerk swears in all persons testifying before it for each contested assessment
b. BOR must provide adequate time for the property owner and the assessor to present their information
c. Owner, or the owner's representatives and witnesses should be heard first
d. BOR may examine under oath, such persons as it believes have knowledge of the property value being appealed
e. BOR may require witnesses to attend a BOR hearing. If the assessor requests witnesses, the BOR will require those witnesses to attend. It is the objector's responsibility to bring his or her witnesses or experts. The BOR can allow objectors to provide sworn testimony, with proof of a medical condition from a doctor. The BOR may require the presence of records and documents to help show the value of properties in question.
f. A stenographer or recorder should record all proceedings and the stenographer must be paid by the municipality. The BOR may order a transcription of the testimony presented at the hearings. In cases of an appeal or other court proceedings, testimony must be transcribed. Even though the proceedings are recorded, members of the BOR should still take notes of testimony given. These notes provide a source of reference when reaching a decision on a property owner's objection.
g. During any meeting, if it determines that some of the written objections cannot be heard at the scheduled time, the BOR creates a new schedule and abides by the 48-hour notice requirement for the property owner and assessor
h. BOR enforces (and in some cases waives) the requirement for filing timely objections under state law

i. BOR removes members under specific circumstances under state law
j. BOR requires that objection forms include stated valuations of the property in question
k. BOR makes all determinations by roll call vote
l. BOR assumes the assessor's valuation is correct barring a sufficient showing by the objector to the contrary
m. As a result of its deliberations, the BOR must state on the record the correct assessment and that it is reasonable in light of all relevant evidence the BOR received
n. The BOR should not adjourn to a future date without setting the hour and day they will meet - the clerk must post a notice with the adjournment information on the outer door of the meeting place
o. Before the final adjournment, the BOR must provide both these items to all parties contesting an assessment:
   1) Written notice of the amount of the assessment finalized by the BOR
   2) Explanation of appeal rights and procedures

2. Who has authority to ask questions at the BOR?

The BOR is defined as a quasi-judicial body under state law. In quasi-judicial proceedings such as the BOR, parties can have expert witnesses and cross-examine all witnesses. Property owners and assessors can ask each other questions. In a case where an attorney represents either the objecting property owner or the municipality, the attorney may question the opposing party's witnesses. Members of the BOR may also ask questions.

The assessor is not a member of the BOR. The assessor is an expert witness for the municipality. The BOR chairperson must manage the hearing to keep all parties focused on the objection.

VI. Duties

A. BOR clerk

The municipal clerk is usually the BOR clerk. With the exception of First-class cities, the clerk is a voting member of the BOR. However, when the town, village or city by ordinance provides for a citizen's BOR, the municipal clerk may act as the BOR clerk, but is not a member of the BOR. Consequently, this clerk does not have a vote on objections heard by the BOR. Town clerks (and treasurers) appointed under state law (sec. 60.30(1e), Wis. Stats.), may not be a BOR member. In First-class cities, the Commissioner of Assessments (or any person designated by the commissioner) acts as the BOR clerk.

Duties include:

1. Posts and publishes the required meeting notices under the statutes
2. After receiving the assessment roll from the assessor, carefully examines it, correcting all double assessments, imperfect descriptions, and other apparent errors
3. Adds omitted real or personal property and immediately notifies the assessor. Assessor then views the property, estimates the value and certifies the value to the clerk
4. Posts a notice of the adjournment if the BOR adjourns for more than one day
5. Keeps an accurate record of all BOR proceedings - should keep a list of persons speaking and the order they spoke in
6. Swears in all persons testifying before the BOR, including the assessor
7. Enters into the assessment roll, in red ink, all assessment roll corrections the BOR made
8. Before final adjournment, notifies each objector by personal delivery or mail (return receipt required) of the assessment determined by the BOR
   - Notice must be on the proper DOR prescribed form (PR-302)
   - The form is available from each county forms designee or the DOR website

9. Prepares an affidavit specifying the date the notice was mailed
10. Summarizes the proceedings and decisions on DOR prescribed forms (PA-800) and (PA-811) available from the county forms designee and keeps this summary as part of the BOR records
11. Provides an affidavit to DOR stating whether the BOR training requirements were met
12. In instances where a member has recused himself or herself from a BOR hearing under state law (sec. 70.47(6m)(b), Wis. Stats.), the municipal clerk provides an affidavit to DOR
13. Provides any written comments received to the appropriate officer
14. Upon final adjournment of the BOR, electronically submits or authorizes the county designee to electronically transmit the Statement of Assessment to DOR

Note: The clerk is the official custodian of all BOR documents and forms. This includes the assessment roll, personal property statements, written objections, the meeting notices, tape recordings and all other material submitted to the BOR. These materials must be retained for at least seven years and should be available for public inspection to the extent of the law.

B. BOR chairperson

Duties include:

- Direct all to conduct the meeting in an orderly and legal manner
- Verifies each objection is written and complete
  - » Uses forms PA-115A (real estate) and PA-115B (personal property)
  - » Obtains forms from the county designee or from the State Prescribed Forms page on the DOR website
- Reminds all witnesses they are required to present relevant evidence on the value of the contested property
- Monitors the BOR's activities. Makes sure the BOR stays within its legal role as a quasi-judicial body.
- Confirms that all relevant evidence needed to make an informed decision is presented
- Questions witnesses and, if necessary, subpoenas witnesses and records
- Requests the municipal attorney represent the BOR and its members at the BOR hearing (optional)

C. Municipal attorney

The municipal attorney should act as counsel for the BOR.

Duties include:

- Protects the interests of the municipality
  - » Cannot also represent the assessor since this would be a conflict of interest
  - » Municipality and BOR must have separate counsel from the assessor
- Asks questions of those appearing before the BOR
- Advises the BOR on legal matters
- Ensures that a complete legal record of BOR activities is established

VII. Assessor and Property Owner Responsibilities

A. Assessor

1. Before the BOR

- Reviews the assessment roll for proper classification, double assessments, omitted properties and clerical errors (known as "perfecting the roll")
- Verifies that Notices of Changed Assessment are mailed within the time frame established by state law and attaches a statement to the roll declaring these notices were mailed
  - » At least 15 days before the BOR hearing or 30 days if the municipality is conducting a revaluation, the assessor must notify real property owners when the total assessment changed from the prior year
  - » Assessor must also attach an affidavit to the assessment roll declaring the notices were mailed, as required by state law
  - » **Note:** When the assessor sends the notices less than the required 15 or 30 days before the start of the BOR, the BOR is required to remain open for 15 or 30 days from the mailing of the notices, unless the property owner waives the 15-day or 30-day notification requirement. A late notice does not allow the objector sufficient time to analyze and collect materials to challenge the assessment.
- Attends at least two hours of the open examination of the roll, stated on the posted or published notice
- Incorporates open book changes into the assessment roll
- Delivers the completed paper assessment roll to the clerk at least one week before the BOR meets
- Completes and signs the assessor's affidavit located in the front of the assessment roll

2. At the BOR

- Defends all assessments at the BOR. Not defending assessments at the BOR violates the sworn affidavit he or she signed and would violate the law.
- Does not run the BOR, he or she responds to questions from the BOR and objectors
- Attends all hearings and allows the property owner, property owner's attorney or the BOR members to examine the assessor's testimony under oath
- Provides the BOR all books and records necessary to explain the assessor's work. Full disclosure is a requirement.
- Supports the assessor's affidavit; does not contradict or impeach it. **Note:** To impeach the assessor's affidavit means to contradict it.
- Serves as the municipality's expert witness – declares facts relative to the values placed on the assessment roll including the current assessment level
- Asks questions of the property owner and BOR members – the BOR ensures people treat each other respectfully and that all parties focus on the issues before it
- Testifies to all factors necessary to support the assessed value on appeal beyond the BOR

Note:

- Record set at the BOR is the record examined throughout the rest of the appeal process. Therefore, it is important to establish a complete evidence base at this level.
- Assessor may be represented by counsel of his or her choosing
- Municipal attorney represents the municipality and the BOR members and cannot also represent the assessor. The assessor requires independent counsel, different than that who represents the municipality and BOR.

B. Property owner

An objecting property owner must meet certain requirements and responsibilities before appearing at the BOR and while at the BOR.

Property owner must:

- File an annual statement of personal property by March 1 if he or she is contesting a personal property assessment. (After March 1, a property owner may submit the completed statement to the BOR along with a note explaining the reason he or she failed to submit the return on time.)
- Allow the assessor onto the property to conduct an exterior view. Sec. 70.47(7)(aa), Wis. Stats., provides that the BOR may deny a hearing to a property owner who does not allow the assessor to complete an exterior view. However, the Wisconsin Supreme Court expressed due process concerns regarding a similarly worded statute in *Milewski v. Town of Dover,* 2017 WI 79, 377 Wis. 2d 38, 899 N.W.2d 303. It is DOR's recommendation to allow a BOR hearing even if the property owner denied an interior or exterior view. The lack of access to view, and the credibility of evidence offered can be managed as an evidentiary issue at a BOR hearing, rather than denying access to the BOR.
- Provide written or oral notice of intent to file an objection to the BOR clerk at least 48 hours before the first scheduled BOR meeting. If the owner is requesting a member be removed, he or she must also mention it at this time, along with an estimate of the length of the hearing.
- Complete the entire written objection form and file it with the BOR clerk. It must:
  - » Be done before or during the first two hours of the first meeting
  - » Include an estimate of value
- Object to only the total valuation of the land and the improvements of a particular parcel
- Not contact a BOR member or give him or her information about the objection except at a BOR hearing
- Present factual evidence that supports the opinion of value stated on the objection form. An objector may then ask the assessor questions.
- Hire legal counsel or other suitable representation if unable to attend the BOR hearing personally

VIII. BOR Appeals

A. Property owners/objectors filing an appeal

Objectors must notify the BOR clerk either orally or in writing of their intent to file an objection. An exception to this requirement is that, upon a showing of good cause to the BOR and submission of a written objection, the BOR shall waive that requirement during the first two hours of the first scheduled meeting. For extraordinary causes, the BOR may waive the intent to file requirement up to the end of the fifth day (if the sessions last five days).

How should property owners file an objection to appear before the BOR?

Property owners who want to protest their assessments are required to do the following:

- Provide to the BOR clerk written or oral notice of intent to file an objection at least 48 hours before the first scheduled meeting (or, for a late BOR, the first scheduled meeting after the roll is complete). Upon showing good cause to the BOR and submitting a written objection, the BOR shall waive that requirement during the first two hours of the first meeting.
- Provide the same 48-hour notice to the BOR clerk stating whether they are requesting statutory removal of a member, who the member is, and a reasonable estimate of the length of the hearing
- File their objection in writing with the BOR clerk before or during the final two hours of the BOR's first scheduled meeting

- Use objection forms prescribed by DOR and provided by the BOR - although the BOR can waive the objection forms, DOR strongly encourages their use to ensure the BOR receives all the appropriate information
- Make full disclosure to the BOR of all their property liable to assessment in the district and its value

B. BOR and appeals

Does the BOR have the authority to deny or waive a hearing?

BOR has the authority to waive a BOR hearing and allow a property owner an appeal directly to the circuit court:

1. BOR may waive a BOR hearing at the request of the property owner, assessor or at its own discretion. Review all waivers with the municipal attorney. **Note:** DOR provides a Request for Waiver of BOR Hearing Form (PA-813).
2. BOR reviews the BOR hearing waiver requests during the first BOR meeting
3. Property owner must provide the 48-hour notice of intent to appeal
4. Property owner must complete the objection form
5. Consider what reasons support waiving the hearing – possible option for complex appeals
6. BOR issues a decision on the waiver not a determination regarding value
7. Property's assessment at the time of the BOR is reviewed by circuit court
8. An action under sec. 70.47(13), Wis. Stats., must be commenced within 90 days of the receipt of the notice of the waiving of the hearing. An action under sec. 74.37(3)(d), Wis. Stats., must be commenced with 60 days of the receipt of the notice of the waiving of the hearing.
9. Claim of excessive assessment under sec. 74.37, Wis. Stats., is not available if the BOR waives the BOR hearing
10. Appeal to DOR under sec. 70.85, Wis. Stats., is not available if the BOR waives the BOR hearing

Note:

- BOR should review the circumstances and state on the record the reason for waiving a hearing. The BOR should not hear any testimony or evidence involving the assessment and should not complete the Notice of BOR Determination (PR-302).
- While the assessor may ask that the BOR waive a hearing, it is the BOR's responsibility/authority to make the decision, not the assessor's

C. Appeal time frame

Time limits for appealing to the BOR

Objectors must file their written objection with the BOR clerk either before or during the first two hours of the BOR's first scheduled meeting (or, for a late BOR, the first scheduled meeting after the roll is complete). If the objection was filed at least 48 hours before the meeting and the objector and the assessor have received at least 48-hour notice of the time of hearing, then the hearing may be held at the first scheduled meeting. The hearing may also happen immediately if all parties are present (phone contact with the BOR is acceptable in the case of qualifying ill and disabled individuals) and if all parties waive such notice in the minutes. In all other cases, after receiving an objection, the BOR establishes a time for the hearing, providing at least a 48-hour notice to the parties. All objections must be filed within the first five days of the BOR hearings.

D. BOR members appeal their own assessments

BOR Members can appeal the assessment on their property. However, the individual must temporarily step down from his or her duties as a BOR member.

E. BOR can adjust an assessment even if an owner did not complain about it

The BOR can hold a hearing to review an assessment even if the property owner did not complain about the assessment. The BOR must carefully examine the roll and correct all apparent description or calculation errors. The BOR must not raise or lower an assessment except when based on evidence presented at a hearing.

BOR can order a hearing even though the property owner did not complain, only if:

- The assessor omitted a property
- It believes a property was assessed above or below the general average of assessment of the tax district

When the BOR orders a hearing, it will:

- Notify the owner, agent or possessor of the property that the BOR will review the assessment
- Set the time and place of the meeting and notify the owner
- Subpoena witnesses to testify concerning the value of the property
- Conduct the hearing, deliberate and make a determination
- Provide the owner with a Notice of BOR Determination

Wisconsin law makes no provision for taxpayers to appeal another individual's property assessment. However, if the BOR has reason to question the accuracy of a property assessment that is not appealed, the BOR has the authority to schedule a hearing to review the assessment.

F. Property owners cannot appeal part of their assessment

Property owners can only appeal the total value of a parcel. They may not object to only the land or only the improvement values. In support of their appeal, property owners must completely fill out the objection form and declare their opinion of the fair market value of the property.

G. Property owners can appeal the classification of their property

Property owners may appeal the classification of their property when it affects the assessed value. Classification affects the assessed value of land classified as agricultural, undeveloped and agricultural forest.

The assessed value of agricultural land is based on its use in agriculture, rather than its fair market value. This valuation standard is referred to as use value assessment.

The assessed value of undeveloped and agricultural forest land is based on its full market value, but reduced by 50 percent. After determining the full value of qualifying undeveloped and agricultural forest lands, under state law (sec. 70.32(1), Wis. Stats.), the value is reduced by 50 percent, under state law (sec. 70.32(4), Wis. Stats.). This valuation standard is referred to as a fractional assessment.

Classification appeals require the owner to show how the land meets the appropriate definition of agricultural, undeveloped or agricultural forest land. Beginning with assessments as of January 1, 2017, the 2017 Wisconsin Act 115 created the following provision for drainage district corridors: …the assessor shall assess the land within a district corridor described under sec. 88.74 in the same class under sub. (2)(a) as the land adjoining the corridor, if the adjoining land and the land within the corridor are owned by the same person."

Drainage districts are local governmental entities organized under a county drainage board for the primary purpose of draining lands for agriculture. A drainage district establishes a legal mechanism for managing drains and related facilities to ensure reliable drainage. Landowners who benefit from drainage must pay assessments to cover the cost of constructing, maintaining, and repairing district drains. Of the 72 counties in Wisconsin, 31 of them contain one or more drainage districts and can be located on an interactive map on the Wisconsin Department of Agriculture, Trade, and Consumer Protection website: Wisconsin Drainage Districts.

Note: The residential class includes most property where the predominant use is for living purposes. The residential class also includes vacant land where the most likely use would be residential development, if the land in question does not meet the definition of agricultural use.

If a property owner is appealing the classification of land that was in agricultural use during the prior year, but not classified as agricultural land for assessment purposes, the property owner should be prepared to present evidence to the assessor or BOR verifying its use in agriculture. At the "open book" and BOR, the assessor should assist the property owner and/or BOR members with the calculations required to determine the use value of any parcel with a classification in a non-agricultural class.

Land Classifications

1. Agricultural land

- State law (sec. 70.32(2)(c)1g, Wis. Stats.), defines agricultural land as "land, exclusive of buildings and improvements and the land necessary for their location and convenience, which is devoted primarily to agricultural use." Land devoted primarily to agricultural use typically bears physical evidence of agricultural use (ex: furrows, crops, fencing or livestock) appropriate to the production season.
- State law (sec.70.32(2)(c)1i, Wis. Stats.), defines agricultural use as "agricultural use as defined by the department of revenue by rule and includes the growing of short rotation woody crops, including poplars and willows, using agronomic practices"
- State law (sec.70.32(2)(c)1k, Wis. Stats.), defines agronomic practices as "generally associated with field crop production, including soil management, cultivation, and row cropping"

2. Undeveloped land

Undeveloped land Includes bog, marsh, lowland brush, uncultivated land zoned as shore land, under state law (sec. 59.692, Wis. Stats.), and shown as a wetland on a final map under state law (sec. 23.32, Wis. Stats.), or other non-productive lands not elsewhere classified.

This class includes areas commonly called marshes, swamps, thickets, bogs or wet meadows, areas with soils of the type identified on soil maps as mineral soils that are "somewhat poorly drained," "poorly drained," or "very poorly drained," or "water," and areas where aquatic or semi-aquatic vegetation is dominant. This class also includes fallow tillable land (assuming agricultural use is the land's highest and best use), road right-of-ways, ponds, depleted gravel pits, and land that, because of soil or site conditions, is not producing or capable of producing commercial forest products.

3. Agricultural forest land

To be classified as agricultural forest, land must meet the criteria under state law (sec. 70.32(2)(c)1d., Wis. Stats.).

Agricultural forest land:

- Must be producing or capable of producing commercial forest products
- Must be contiguous to a parcel that is classified in its entirety as agricultural
- Must be owned by the same person who owns the contiguous parcel classified entirely as agricultural
- Agricultural forest land and the agricultural parcel can only be separated by a road

Review the Agricultural Assessment Guide for agricultural forest examples.

IX. Presentation of Evidence

A. "Presumption of correctness"

After the assessor's affidavit is completed and signed, the BOR must accept the valuations in the assessment roll as correct valuations. According to state law, the BOR must presume the assessor's valuation is correct. This presumption of correctness is binding on the BOR unless sufficient evidence to the contrary exists. To overturn this presumption of correctness, the property owner has the burden of proof to show evidence proving the assessor is incorrect.

B. Evidence available to the BOR

The BOR can only consider the sworn oral testimony of witnesses appearing before it. Courts have held that if appropriate credible evidence is presented to the BOR showing the assessor's valuation to be incorrect, the BOR must consider it.

A BOR can request additional evidence. If the BOR or the assessor request, the BOR can compel witnesses to appear for questioning. The law allows ill or disabled objectors to testify by phone if a letter from a physician, surgeon or osteopath confirms their illness or disability. The municipality must pay for the call.

In addition to oral testimony, the BOR can also subpoena books, records, appraisals, documents and any other data that may help to understand the issue. If the objector's or the assessor's used the income approach for valuation, the objection should not be heard unless the objector supplies to the assessor all the necessary income and expense information the assessor requests.

The assessor must give the BOR any information relating to the appealed assessment. In addition, the assessor should prepare to present the facts and valuation methods used to develop the assessments. The information presented should help the BOR determine if the assessment is correct. The objection form may contain written testimony or contain exhibits to become part of the BOR proceedings.

If evidence is submitted that was only available to one side prior to the hearing, the BOR should request documentation of any evidence submitted that has not been proven. If documentation is unavailable, this should impact the BOR's evaluation of the credibility of the evidence.

The BOR must provide adequate time for the property owner and the assessor to present their information.

C. All testimony must be given under oath

BOR considers sworn oral testimony of witnesses appearing before the BOR.

- Only evidence given under oath is binding
- The BOR is required to hear upon oath, by telephone, all ill or disabled persons who present to the board a letter from a physician, osteopath, physician assistant, or advanced practice nurse prescriber that confirms their illness or disability
- In addition to sworn oral testimony, an objector must also specify in writing, the person's (ex: property owner) estimate of the land value and improvements that are the subject of the objection. The objector must also specify the information the person used to arrive at that estimate.
- BOR may accept sworn information over the telephone or a sworn written statement:
  - » DOR created – Request to Testify by Telephone or Submit a Sworn Written Statement (PA-814)
  - » BOR determines whether it will accept information in writing or over the phone
  - » BOR reviews requests during the first meeting of the BOR
  - » Property owner must provide the 48-hour notice of intent to appeal
  - » Property owner must complete the objection form

  - » Considerations – written information does not allow for cross examination, audibility for information over the phone, identification of speakers
- BOR may also postpone and reschedule a hearing – limited to once during the same session for the same property

X. BOR Decisions

A. Reaching a decision

After the BOR hears all the evidence, it must deliberate to reach a decision. The deliberation process is open to the public.

BOR deliberates in one of these ways:

- After each objection is heard
- After all objections are heard
- Periodically during the time the BOR is open

After hearing all the evidence, the BOR determines if the assessor's valuation is correct. The BOR's decision should incorporate the understanding that the assessor is presumed correct and the objector has the burden of proof to sufficiently show the assessment is incorrect. DOR recommends recording the deliberation discussion and final determination. The BOR's determination is by roll call vote. Decisions to adjust assessments need to clearly identify the final assessment allocated to the land and the improvements.

B. End of BOR hearing

1. Notification needed at the end of a BOR hearing

The BOR may announce its decision to the property owner and assessor at the conclusion of the hearing, or it may take the case under advisement. However, the BOR clerk must provide the objector, or the appropriate party, notice of the finalized assessment before the final adjournment. This written notice must also explain the property owner's appeal rights and procedures. The BOR clerk must also prepare an affidavit that includes the date the notice was delivered or mailed.

2. Clerk's responsibility after the BOR makes its decisions

The clerk should summarize the proceedings and decisions on DOR prescribed form (PA-800).

Summary should include the following:

- Property owner's name
- Property description
- Amount of the objected assessment
- Names of the persons who appeared for the property owner
- BOR determination

The municipality should keep this form for at least seven years with the clerk's notes, written objections and all other material submitted to the BOR.

XI. Appealing a BOR Decision

If a property owner is not satisfied with the BOR decision, there are three appeal options available. There are filing requirements for each appeal option. For more detailed information review the Property Assessment Appeal Guide on our website.

If a property owner did not contest the assessment before the local BOR, no other reviewing authority will hear his or her case.

A. Appeal options

- Appealing to DOR – sec. 70.85, Wis. Stats.
- Appealing to the circuit court – sec. 70.47(13), Wis. Stats.
- Appealing to the municipality (Excessive Assessment) – sec. 74.37, Wis. Stats.

1. Appealing to DOR

A property owner can file a written complaint with the DOR Equalization Supervisor. This appeal has several conditions.

a. Property owner must:

1) File a written complaint within 20 days after the property owner receives the BOR determination or within 30 days of the date specified on the affidavit if no return receipt of the Notice of BOR determination exists
2) Pay DOR a $100 filing fee
3) State the value of the property does not exceed $1,000,000
4) State the property being appealed is radically out of proportion to the general level of the assessments of all other property in the taxation district

This appeal process applies to either real or personal property. It is not available for properties located in First-class cities (Milwaukee). The appeal procedure is described under state law (sec. 70.85, Wis. Stats.).

Note: DOR sends an Appeal Questionnaire (PR-305B) to the municipal clerk after DOR receives an appeal of the BOR determination.

b. Clerk must:

1) Complete the Appeal Questionnaire (PR-305B) and submit it to DOR along with a copy of:
   - » Summary of BOR Proceedings Form (PA-800)
   - » Property Owner Objection Form (PA-115A or B)
   - » If the BOR determination notice was sent certified mail, a copy of the certified mail return receipt
2) Contact the DOR Equalization Supervisor with questions, see page 38 for additional information

c. Appealing a sec. 70.85 decision to a higher court

If the property owner finds DOR's decision unacceptable, he or she can appeal to the circuit court. The court will review the DOR decision to determine if DOR made the proper decision.

2. Appealing to the circuit court

A property owner can appeal the BOR's decision by requesting that the circuit court (in the county where the property is located) review the written record of the hearing (action of certiorari).

a. Property owners must do the following:

- File an appeal with the circuit court within 90 days after receiving notice of the determination
- Provide only the BOR evidence to the court

b. The court decides the case solely on the basis of the written record made at the BOR

If the circuit court finds any error in the BOR proceedings, it will return the appeal to the BOR. The court may also remand the appeal back to the BOR if it determines the BOR lacked good cause to deny the request for assessment reduction. The BOR must follow the instructions from the court when reconsidering the case. The court may order the municipality to reconvene the BOR if it has adjourned before the court's decision on the appeal.

3. Appealing to the municipality

Before appealing to the municipality, the property owner must first appeal to the BOR. A property owner cannot appeal to the municipality if her or she already appealed to the circuit court or to DOR. Under state law (sec. 74.37, Wis. Stats.), no claim for an excessive assessment may be brought to the municipality unless the tax is timely paid. The property owner must file a claim with the municipality by January 31 of the year the tax is payable. If the municipality denies the claim, the taxpayer may appeal to the circuit court within 90 days after receiving notice by registered or certified mail that the claim is disallowed.

What can be appealed

- Claim for an excessive assessment may be filed against the taxation district or the county that has a county assessor system, which collects the tax
- Claim filed must meet all of the following conditions:
  - » Be in writing
  - » State the alleged circumstances giving rise to the claim
  - » State as accurately as possible the amount of the claim
  - » Be signed by the claimant or his or her agent
  - » Be served on the clerk of the taxation district, or the clerk of the county that has a county assessor system, in the manner under state law (sec. 801.11(4), Wis. Stats.), by January 31 of the year the tax is payable based on the contested assessment
- Property owner may bring all new evidence to the municipal body
- If the municipality denies the claim, the property owner may appeal to the circuit court within 90 days after receiving notice by registered or certified mail that the claim is disallowed

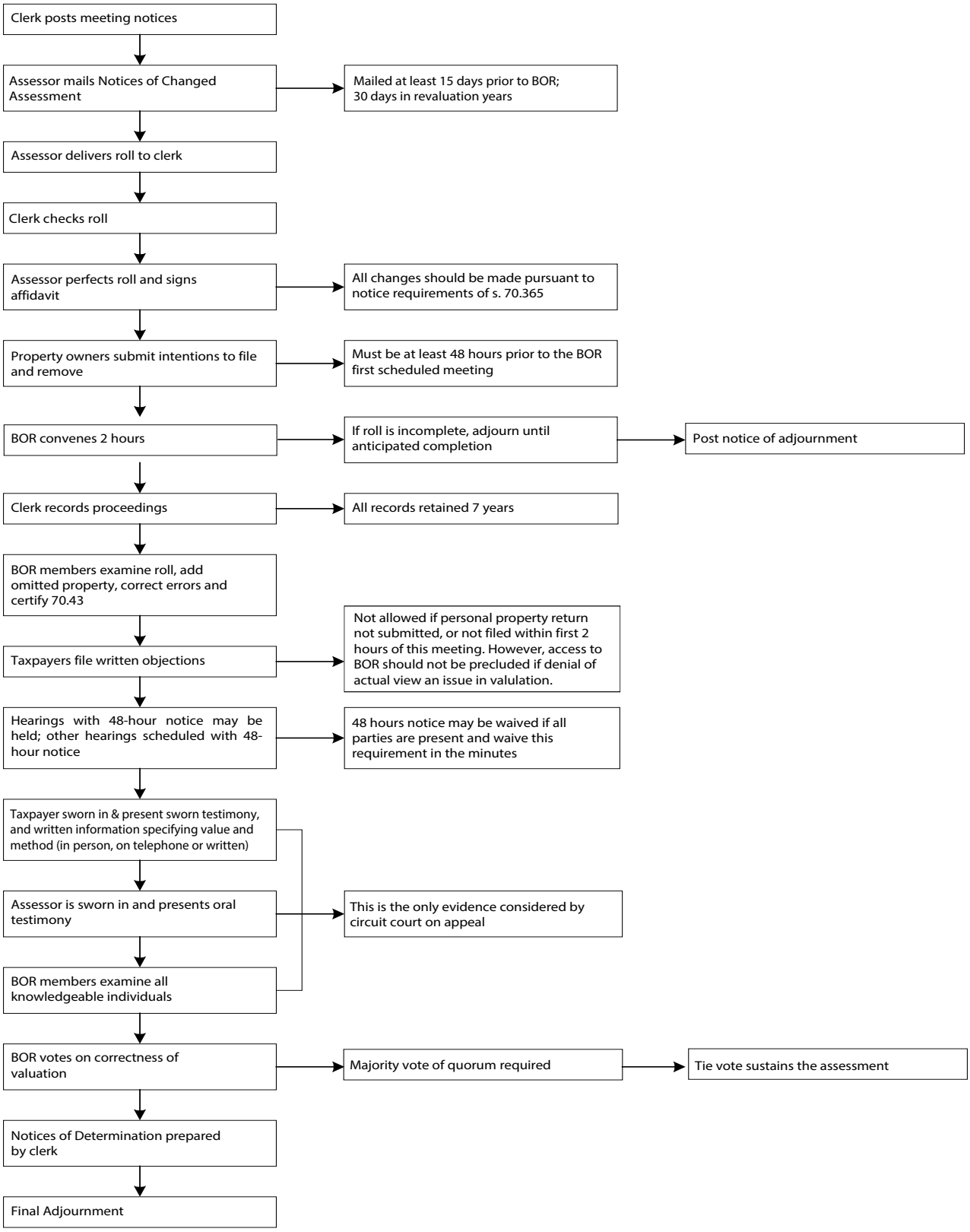
B. Appealing a circuit court decision to a higher court

If the property owner finds the circuit court decision unacceptable, he or she can appeal to the court of appeals. This court will review the facts of the case considered by the lower court to determine of it applied assessment law correctly.

C. Appealing a court of appeals decision to a higher court

A property owner can appeal the court of appeals decision to the Wisconsin Supreme Court. However, this court can also refuse to hear an appeal and thus let the ruling of a lower court stand. The Supreme Court has the final word in the appeal process. At this level, the court reviews all the lower court records and may request written legal briefs from each party supporting its point of view. Once the Supreme Court makes a ruling, it becomes the official interpretation of the laws of the state.

XII. BOR Flowchart



XIII. BOR Legal Authority

A. BOR's primary duties

Each municipality in Wisconsin has the legal authority to create a BOR, which is a quasi-judicial (court-like) body empowered with three primary duties, including:

1. Adjusting assessments when proven incorrect by sworn oral testimony
2. Reviewing the assessment roll for omitted property and double assessments
3. Correcting any errors or omissions in the assessment roll descriptions or calculations

Note: The first formal step in the appeal process starts at the BOR.

B. BOR authority

Statute and case law define the BOR's authority. Many court cases on BOR proceedings exist. The following statements describe BOR's authority:

- It cannot do the work of the assessor and cannot substitute its judgment or opinion of value for the assessor's. The assessor has sole responsibility for making assessments.
- It is legally bound to accept the assessor's assessment as correct unless there is evidence that proves the assessment is incorrect
- It's duty is to hear sworn, oral testimony about assessed values and to decide (based solely on that testimony) whether an individual proved the assessment to be incorrect not to assess property
- It does not have exemption from taxation authority

State law (sec. 70.46 through 70.48, Wis. Stats.), describes the authority, structure and procedures of a BOR. This guide uses these statutes and case law to define the responsibilities of a Wisconsin BOR.

C. BOR members are subject to penalties for misconduct

The BOR is not an assessing body or charged with redoing the work of the assessor. The BOR can only hear the evidence before it and then act on the basis of that evidence. BOR members who intentionally violate any of the established BOR procedures with the intent to fix any assessed value at less than its true value or omit any property from assessment are guilty of fraud and subject to penalties established by Wisconsin criminal law.

XIV. WI Acts, Statutes, Case Law, Performance and Technical Standards

A. Wisconsin Acts

1. Timing of Open Book and BOR; Exterior View (2017 Act 68)

- Amended sec. 70.47(1), Wis. Stats. – Board of Review Time and Place of Meeting
  - » Current law – meet annually during 30-day period starting 2nd Monday of May
  - » New law – meet annually during 45-day period starting 4th Monday of April, no sooner than seven days after the last day which the assessment roll is open for examination under 70.45, Wis. Stats.
- Amended sec. 70.47(7)(aa), Wis. Stats. – Board of Review Appearances – no person can appeal to the BOR if refused reasonable written request of assessor to view exterior of property (see Notice)
- Amended sec. 70.47(7)(af), Wis. Stats. – BOR and Property Appealed Using the Income Method to Value
  - » No person can appeal to the BOR if the value was made by assessor using the income method unless no later than seven days before the first meeting of the BOR, the person supplies to the assessor all information about income and expenses
  - » Information provided under this paragraph is not subject to right of inspection and copying unless a court determines before the first meeting of the BOR that information is inaccurate

2. BOR hearing changes (2013 Wisconsin Act 228)

a. Requires the following notices as of January 1, 2015:

- Notices of changed assessment be sent to the property owner at least 30 days before the meeting of BOR when the municipality is conducting a revaluation
- Notices of changed assessment be sent to the property owner at least 25 days before the meeting of the BOA in a first class city
- Class one meeting notice at least 15 days before the BOR's first meeting or at least 30 days before the first meeting when the municipality is conducting a revaluation

b. Provides the BOR with the following options:

- Allow a property owner to appear by telephone or to submit written statements for the objection, under oath, instead of appearing in person at the BOR hearing
- Postpone and reschedule a BOR hearing as it relates to a property once per session, at the request of the property owner
- Waive the BOR hearing and have the assessment reviewed in circuit court

3. Trespassing and Revaluation Notice (2009 Wisconsin Act 68)

Provides statutory guidance to assessors regarding trespassing.

This law includes – partially exempting an assessor and an assessor's staff from liability for trespassing, creating immunity from civil liability, and changing the notice requirements relating to the revaluation of property by an assessor.

a. Trespass law

The trespass law entitles the assessor to enter a property once during an assessment cycle unless the property owner authorizes additional visits. A list of denied entries is maintained by the assessor under state law. State law (sec. 943.13 and 943.15, Wis. Stats.) pertains to property entry.

b. Revaluation notice

Notification must be published on or before a revaluation by an assessor.

Under state law (sec. 70.05(5)(b) Wis. Stats.), before a city, village or town assessor can conduct a revaluation of property, it must publish a notice on its municipal website stating a revaluation will occur. If a municipality does not

have a website, it must post the required information in at least three public places within the city, village or town.

The notice must include approximate dates of the property revaluation and describe the authority of an assessor, to enter land. (secs. 943.13 and 943.15, Wis. Stats.)

DOR recommends you provide a link to the Wisconsin Statute references mentioned above on your website.

B. Statutes and case law

Although statutes and case law may be thought of as standards, they are not optional in the sense of "attempting to achieve." It is required to follow statutes and case law.

There are two such requirements for Wisconsin assessors

1. Wisconsin law (sec. 70.32, Wis. Stats.) requires assessors to assess residential, commercial, manufacturing, forest, other and personal property at full value. They must assess agricultural land according to use value guidelines. They must assess undeveloped and agricultural forest at 50 percent of its full value.
2. **Assessment compliance –** under state law (sec. 70.05(5)(b), Wis. Stats.), each municipality must assess all major classes of property within 10 percent of full value in the same year, at least once within a five-year period. A 'major class' of property is defined as a property class that includes more than 10 percent of the full value of the taxation district. If a municipality is non-compliant after four consecutive years, the Wisconsin Department of Revenue (DOR) must notify the municipality of its non-compliance status. DOR issues the municipality a second non-compliance notice after five consecutive years of non-compliance, and issues an order for supervised assessment after six consecutive years of non-compliance.

C. Performance and technical standards

Performance and technical standards for Wisconsin assessors are found primarily in three documents.

1. Wisconsin Property Assessment Manual (WPAM)
2. International Association of Assessing Officers (IAAO) Technical Standards
3. Uniform Standards of Professional Appraisal Practice (USPAP)

Wisconsin Property Assessment Manual (WPAM)

The WPAM specifies technical, procedural and administrative practices. It also defines procedures, policies, legal decisions and assessor performance expectations.

State law (sec. 73.03, Wis. Stats.), grants DOR the authority to prepare the WPAM. This statute requires DOR to prepare a manual that discusses and illustrates accepted assessment methods, techniques and practices to help create more uniform and consistent property assessments at the local level.

DOR amends the manual to reflect changes in the assessment practices, court decisions concerning assessment practices, costs, and statistical and other information deemed valuable to local assessors.

XV. BOR Court Case Decisions

All the following cases deal with BOR issues. We included the most important cases. You can find more cases in Volume I of the Wisconsin Property Assessment Manual (WPAM) and in court records.

These cases are arranged in the following categories:

A. General
B. Procedures
C. Organization
D. Notices
E. Objections
F. Sworn oral testimony
G. Assessor presumed correct
H. Witnesses
I. Evidence
J. Appeals

A. General

1. *State v. Gaylord,* 73 Wis. 306, 41 N.W. 518 (1889)

The power of the Board to review and alter extends not merely to the correction of errors in the roll, but also to lowering or raising the valuation of any property, including securities on the assessment roll; and the sworn statement as to the amount of such securities, made by the property owner to the assessor, is not conclusive on the Board.

2. *Brown v. Oneida County,* 103 Wis. 149, 79 N.W. 216 (1899)

The court held that, "the Board is a creature of the statute, and has only such powers given to it by the statute."

3. *State ex rel. Kimberly Clark Co. v. Williams,* 160 Wis. 648, 152 N.W. 450 (1915)

The court said, "The BOR is not an assessing body and it is not to do over the work of the assessor or substitute its judgment for his." Court set aside an assessment made by the BOR after the Board had made a personal inspection of the property.

4. *State ex rel. International Business Machines Corporation v. BOR, City of Fond du Lac,* 231 Wis. 303, 285 N.W. 784 (1939)

A BOR is not an assessing body, but rather a quasi-judicial body whose duty it is to hear evidence tending to show errors in the assessment roll and to decide upon the evidence adduced whether the assessor's valuation is correct.

5. *Milewski v. Town of Dover, 2017 WI 79,* 377 Wis.2d 38, 899 N.W.2d 303

Property owners brought action against municipality, alleging excessive property tax assessment and raising as-applied constitutional challenges to statutes governing procedure to be followed in challenging tax assessor's property valuation. The lead opinion held that: (1) property owners had a due process right to contest tax assessor's valuation of their real property as excessive; (2) tax assessor who enters a home to conduct an "interior view" occupies private property for the purpose of obtaining information and is, therefore, conducting a Fourth Amendment search; and (3) statutory scheme governing practices for challenging tax assessor's property valuation was unconstitutional as applied to the property owners.

6. *Thoma v. Village of Slinger, 2018 W.I. 45 (Wis. 2018).*

The classification of real property for tax purposes is based on the actual use of the property, and an injunction prohibiting agricultural use of a residentially-zoned property, which is based on a restrictive covenant, does not control the property's tax assessment classification.

7. Ogden Family Trust v. Town of Delafield, 2019 WI 23.

The Court held: the BOR did not act according to law when it based its decision on an erroneous belief that a business purpose was required for agricultural classification. A business purpose is not required for agricultural classification so long as land is devoted primarily to "agricultural use" as defined by state statutes and administrative rules. That use does not need to be carried out for a business purpose for the land to qualify as agricultural land.

B. Procedures

Once the assessor places a value on all taxable property listed on the assessment roll and signs the affidavit attached to the roll, the assessments are presumed correct. At this time, the assessor is not allowed to impeach the information found in the assessment roll and the BOR cannot change an assessment without sworn oral testimony. The BOR meets once the assessment roll is completed and delivered to the municipal clerk.

Bender v. Town of Kronenwetter, 2002 WI App 284, 258 Wis.2d 321, 654 N.W.2d 57

Sec. 70.47(8) (e), Wis. Stats., states in part that all proceedings shall be taken in full by a stenographer or by a recording device. In this case, the court found that "complete and accurate records of the (BOR) meetings were not kept." The erratic records have made it difficult and sometimes impossible to tell whether there was a quorum at each evidentiary and decision hearing as required by sec. 70.47(1), Wis. Stats. and whether any Board member voted on an assessment after failing to attend the evidentiary hearing on that valuation in violation of sec. 70.47(9)(b), Wis. Stats.

"Another problem is that all the Board members who voted on a decision may not have attended the evidentiary hearing on that assessment or have read a transcript or listened to a recording of the evidentiary hearing at least five days before voting as sec. 70.47(9)(b), Wis. Stats. requires."

"Still another problem is that a majority of the Board members may not have agreed on each of the assessment decisions … the record suggests that not all voting members were at the evidentiary hearings and therefore should not have been counted in the majority vote…" Allowing a Board member to vote or participate in deciding an assessment when he did not attend the evidentiary hearing and deciding cases without the agreement of at least two Board members are fundamental errors.

"Because the court has found numerous errors in the proceedings of the Board that affect each petitioner, it finds those proceedings void and remands each of the assessments that petitioners had hearings on before the Board for a rehearing."

C. Organization

1. Revenue Administrative Advice (1978)

Sec. 70.365, Wis. Stats. specifically states that the notices shall be sent "at least 15 or 30 days before the meeting of the board." There is no authority in the rules of statutory construction to reinterpret this specific and clear language to expand the 15 or 30-day period by excluding legal holidays, weekend days or non-business days from the calculation of the 15 or 30 days. It is plainly obvious that any 15 or 30-day period would include a weekend or possibly legal holidays; this would have been obvious to the legislature and no specific reference was made in the statute to exclude any such days from the calculation of the 15 or 30-day period. Any general language in another statute should not be used to defeat the obvious intent in sec. 70.365, Wis. Stats.; the rules of statutory construction require that language of a specific section control over the more general language in another statutory provision. As an example, if the board is scheduled to meet on the sixteenth of the month, the notices will satisfy the statutory requirements if they are mailed no later than the first day of the month even though legal holidays and weekend or non-business days intervene. In this example cited, the 15 or 30-day period does not have to be moved back into the previous month to accommodate the occurrence of any legal holidays, weekend or non-business days.

2. *Bender v. Town of Kronenwetter,* 2002 WI App 284, 258 Wis.2d 321, 654 N.W.2d 57

The court stated, "It is clear from sec. 70.46(1), Wis. Stats. that the assessor cannot act as a BOR member in deciding appeals. Common sense dictates that an assessor should not be judging the merits of his own assessments when a property owner appeals to the BOR. The assessor has a right to be present at a decision hearing, as any other citizen does at an open meeting, but the assessor cannot participate in any way or vote on the cases. The action by the Board in allowing the assessor to repeatedly give information, participate and even vote at decision hearings was a major error that materially prejudiced petitioners' rights to a fair appeal. Sec. 70.46(1), Wis. Stats. and due process considerations forbid this participation by an assessor."

D. Notice

1. Revenue Administrative Advice (September 2, 1994)

Should Saturday, Sunday and Holidays be excluded in the calculation of time relating to the Notice of Higher Assessment?

Sec. 70.365, Wis. Stats., specifically states that the notices shall be sent "at least 10 days before the meeting of the board." There is no authority in the rules of statutory construction to reinterpret this specific and clear language to expand the 10-day period by excluding legal holidays, weekend days or non-business days from the calculation of the 10 days. It is plainly obvious that any 10-day period would include a weekend or possibly legal holidays; this would have been obvious to the legislature and no specific reference was made in the statute to exclude any such days from the calculation of the 10-day period. Any general language in another statute should not be used to defeat the obvious intent in sec. 70.365, Wis. Stats.; the rules of statutory construction require that language of a specific section control over the more general language in another statutory provision. As an example, if the board is scheduled to meet on the eleventh of the month, the notices will satisfy the statutory requirements if they are mailed no later than the first day of the month even though legal holidays and weekend or non-business days intervene. In this example cited, the 10-day period does not have to be moved back into the previous month to accommodate the occurrence of any legal holidays, weekend or non-business days.

2. *State ex rel. John R. Davis Lumber Co. v. Sackett,* 117 Wis. 580, 94 N.W. 314

The court held, "The BOR must give the property owner notice of intention to increase his assessment before it can legally increase it." Sec. 70.47(10), Wis. Stats. states that the BOR can add omitted property but must notify the property owner. The Board cannot raise an assessment except upon reasonable evidence submitted to it; to do so constitutes jurisdictional error.

3. *Milwaukee County v. Dorsen,* 208 Wis. 637, 242 N.W. 515 (1932)

Taxation proceedings are not judicial, and taxpayer is not entitled to such notice and hearings are essential to validity of judicial proceedings and judgments. The court stated, "…much less formality as to notice and opportunity to be heard will suffice to satisfy requirements of due process of law in taxation proceedings than before judicial tribunals."

A property owner is not entitled to specific notice of the BOR meeting time and place. Under state law, the meeting time and place, along with providing general notice, is sufficient to constitute due process.

4. *State ex rel. Baker Mfg. Co. v. City of Evansville,* 261 Wis. 599, 53 N.W.2d 795 (1952)

Where the original meeting of the City BOR to consider the property owner's objection to the assessment of its personal property was adjourned to no particular time, a later meeting to consider the assessment not referring to the adjourned meeting and held almost two months after the first meeting, was a new meeting and not an adjourned meeting, and the statutory 48-hour notice was required to be given to the property owner.

E. Objections

Objections to valuation must be in writing unless expressly waived by action of the Board. No assessment may be raised or lowered except after a hearing, under state law (secs. 70.47(8) and 70.47(10), Wis. Stats.).

1. *State ex rel. Reiss v. Board of Review of Town of Erin,* 29 Wis.2d 246, 138 N.W.2d 278 (1965)

In this case the property owner had filled out answers to all the questions on the form, including date of purchase and purchase price, improvement (nature and value), amount of fire insurance carried on the buildings, and that there had been no recent commercial appraisal of the buildings. However, in the answer to the question, "What is the present fair market value of this property?" The objecting property owner wrote, "I do not know." The court says, "Even if it were considered that the Board had accepted the answers to other questions, the answer remained insufficient. Surely the single most important fact relevant to an assessment is the fair market value of the property and a property owner who desires to proceed with an objection in good faith must be prepared to take a position as to what the fair market value is."

The majority of the court held that the property owner had not properly filled out the objection form and therefore had no right to a BOR hearing.

2. *Bitters v. Town of Newbold,* 51 Wis.2d 493, 187 N.W.2d 339 (1971)

A property owner, wishing to appeal an assessment appeared at the BOR with an improvised objection form. At the meeting, the property owner refused to fill out the proper objection form or be sworn in and left the meeting without testifying. When the tax bills were later issued based on the original assessment, only the portion of the bill based on the property owner's estimate of value was paid. The property owner then filed a claim under sec. 74.37, Wis. Stats. for recovery of illegal taxes.

The court held that the BOR may deny a property owner a hearing if the objection is not stated on an approved form; the Board does not have to accept the information supplied by the property owner in a different format. A certiorari review is limited to the action of the Board. In this case the property owner did not meet the requirements of appearing at the BOR.

F. Sworn oral testimony

1. *Town of Wauwatosa v. Gunyon,* 25 Wis. 271 (1870)

The court stated that a note should be made in the records "refused to swear," when parties refuse to swear or present evidence under oath. The Board may then proceed to hear the appeal.

2. *Bender v. Town of Kronenwetter,* 2002 WI App 284, 258 Wis.2d 321, 654 N.W.2d 57

The court found that "another error that the Board made was failing to swear the assessor in when he spoke at the evidentiary hearings. Sec. 70.47(8), Wis. Stats., requires that all persons be sworn before giving evidence on the valuation of property to the BOR. These transcripts show that each objecting property owner, property owner's attorney and witnesses (if any) were all duly sworn, but never once was the assessor sworn before he gave testimony. The assessor spoke at many hearings without being under oath. The Board should have had the assessor take an oath before speaking about any assessments or offering information… The fact that the assessor testified at several evidentiary hearings without being under oath like all the other witnesses requires a finding that these hearings were void."

3. *State ex rel. Heller v. Fuldner,* 109 Wis. 56, 85 N.W. 118 (1901)

Where no evidence under oath is given or offered before the BOR upon an application to reduce an assessment, the Board has no power to reduce the valuation.

4. *State ex rel. Vilas v. Wharton, 117 Wis. 558,* 94 N.W. 359 (1903)

Letters and affidavits of the purchasers of property are not admissible as evidence before a BOR upon the question of whether the title passed to them before the assessment date.

5. *In re Ryerson's Estate,* 239 Wis. 120, 300 N.W. 782 (1941)

Assessment rolls are not competent evidence to establish value in cases other than those given that effect by express provision in the statutes. However, statements made to assessor or the BOR with respect to description and value of property, whether written or oral, may be received in evidence against property owner as an "admission against interest," it being within the power of the assessor and Board to require a property owner to submit to an examination.

G. Assessor presumed correct

1. *Bass v. Fond du Lac County,* 60 Wis. 516, 19 N.W. 526 (1884)

The court ruled, "The BOR and the clerk should see to it that the assessor's affidavit is signed and attached to the roll, for its absence is prima facie evidence of the inequality or injustice of the assessment and shifts the burden of proving it equitable and just to the municipality."

2. *State v. Lien,* 108 Wis. 316, 84 N.W. 422 (1900)

In proceedings before the BOR, the assessor's valuation is prima facie correct.

3. *State ex rel. Kimberly-Clark Co. v. Williams,* 160 Wis. 648, 152 N.W. 34 (1955)

The assessor's valuation of property is prima facie correct and is binding on the BOR in the absence of evidence showing it to be incorrect.

4. *State ex rel. Enterprise Realty Co. v. Swiderski,* 269 Wis. 642, 70 N.W.2d 34 (1955)

The assessor's valuation is presumptively correct and the owner's evidence that such valuation exceeded construction costs was not sufficient to upset the assessor's valuation. Construction costs do not prove the sale price.

H. Witnesses

State ex rel. Gregersen v. Board of Review of Town of Lincoln, 5 Wis.2d 28, 92 N.W.2d 236 (1958)

The court admits that extraordinary cases might arise wherein "it may be very important to the property owner to examine the assessor as an adverse witness at the very outset…" of the proceedings. The court proceeds to quote favorably the language in the case of Baker Mfg. Co. v. Evansville, 261 Wis. 599, 53 NW 2d 795 (1952).

"A few questions to the assessor may quickly establish facts which could otherwise be proved only by the time consuming and expensive method of proving the values of a large sampling of properties to show that discrimination has been practiced against one class. Other examples might be suggested. Where the case is none of that sort, the property owner's right to determine the order in which he will present his case, and to call the assessor at the outset for cross examination, is a matter of such substance that only extraordinary circumstances could warrant its denial. On the other hand, in an ordinary case where the sole contention is that the assessor has over estimated the value of property owner's own property, circumstances may justify the Board in requiring the property owner to present his own testimony on value or that of his expert witnesses before examining the assessor."

The court then concludes that if the property owner, "thought he would be prejudiced by waiting until after his own testimony to examine the assessor, he owed it to the Board to assert such prejudice and explain how it might result. Having failed to do so, he cannot later be heard to say in court that the Board exceeded its jurisdiction in directing him to put in other testimony first." The court also remarked that in the certiorari proceedings the property owner should have, but did not, show how the Board's action was prejudicial to a material degree.

I. Evidence

1. *Milwaukee Iron Co. v. Schubel,* 29 Wis. 444 (1872)

The BOR has no authority to value property arbitrarily or capriciously, but must be governed by the sworn evidence before it, where that is clear and uncontradicted; although, if the evidence is conflicting the decision of the Board may be final.

2. *State ex rel. N.C. Foster Lumber Co. v. Williams,* 123 Wis. 61, 100 N.W. 1048 (1904)

In proceedings before a BOR to reduce the assessor's assessment, the Board is not bound to accept as true the evidence upon one side or that of the other, but may, in the exercise of its judgment, disregard the evidence on both sides, and fix a valuation between the two extremes.

In proceedings before a BOR for the reduction of an assessment of sawmill property for taxation, the testimony of the owner bore mainly on what the property was worth to disorganize and dispose of its parts. The testimony in support of the assessment bore mainly on what the property was worth as an entirety and as a going concern; that is, what the property would bring at private sale, assuming that a buyer, with the same opportunity for the use of the mill as the owner, was at hand, and had the means to buy it. The court held that under sec. 70.32, Wis. Stats., providing that real property shall be valued at the value which could ordinarily be obtained therefore at private sale, and prescribing what elements the assessor shall consider in determining the value, the evidence of the owner furnished no basis for valuing the property, while the evidence in support of the assessment was sufficient to warrant the Board in adopting the assessor's valuation.

3. *State v. Fisher,* 129 Wis. 57, 108 N.W. 206 (1906)

"Board may consider evidence of an earlier hearing to support its findings and is not held to regular court rules on evidence."

4. *State ex rel. Althen v. Klein,* 157 Wis. 308, 147 N.W. 373 (1914)

The BOR cannot change the assessor's valuation without evidence; but if, in any reasonable view of it, the evidence furnished a substantial basis for the action of the Board in making a change, and there is nothing to show that it acted arbitrarily or dishonestly, its decision will not be interfered with by the courts.

5. *State v. Jodon,* 182 Wis. 645, 197 N.W. 189 (1924)

The court held, "All that can be asked of assessment officers is that they act on the evidence and facts before them, honestly and without discrimination against such property. When this is done and the case is before us on appeal, we will examine the record to ascertain if there is any competent, credible evidence to sustain the valuations placed upon the property by the assessing officers, and if there be such, it is not our province to weigh the testimony to determine where the preponderance lies."

6. *State v. Windus,* 208 Wis. 583, 243 N.W. 216 (1932)

The court said that, "It was proper to consider cost, depreciation, replacement value, income, industrial conditions, location and occupancy, sales of like property, book value in a prospectus, and appraisals produced by owner."

7. *State ex rel. Collins v. Brown,* 225 Wis. 593, 275 N.W. 455 (1937)

"It has been consistently held that in the state the assessor's valuation is prima facie correct and will not be set aside in the absence of evidence showing it to be incorrect." The fact that the property was sold immediately after the assessment at a lower price than the assessment does not prove the assessment wrong unless it is shown that the price paid is that which could be obtained at a private sale. The burden of proof is upon the person appealing the assessment.

8. *State ex rel. First & Lumbermen's Nat. Bank of Chippewa Falls v. Board of Review of Chippewa Falls,* 237 Wis. 306, 296 N.W. 614 (1941)

The rule on real estate assessment is that value for tax purposes shall be arrived at by the assessor from an actual view or from the best information that can be practically obtained as to the full value which would ordinarily be obtained for property at a private sale, and when the assessor has complied with such rule and the BOR has been guided by competent evidence in passing upon fairness of assessment, a court cannot disturb the findings.

9. *Bauermeister v. Town of Alden,* 16 Wis.2d 111, 113 N.W. 823 (1962)

Owners of 22 properties alleged that their lakeshore properties were assessed in 1959 at a much higher ratio (average 96.9 percent) than six farms they picked out as comparisons which were assessed at an average ratio of 53.8 percent. The court gave much weight to the fact that these farms were not random samples; and that testimony of tabulated sales of farms sold in 1957, 1958, and 1959 showed that "the particular farms sold were assessed at a higher percentage of the perspective sales price than the particular lakeshore properties sold in the same year…

These facts tend to show that there was no discrimination in favor of farms, at least in the assessment of the particular properties sold."

The court continued, "We take judicial notice of the fact that the Department (of Revenue) determined that in 1959, in the Town of Alden, the assessed value of all real estate was 99.2 percent of full value, and the assessed value of all real estate and personal property combined was 95.6 percent of full or true value… It is of some significance that the Department, following its own statistical methods, arrived at a result which does not support the plaintiff's contentions." Relief to plaintiffs was denied.

10. *State ex rel. Home Ins. v. Burt,* 23 Wis.2d 231, 127 N.W.2d 270 (1964)

Under this section requiring real property to be assessed at the full value which could ordinarily be obtained at private sale, the assessor's valuation must be taken as presumptively correct in proceedings appealing an assessment, but presumption gives way to undisputed competent evidence establishing a lower value or substantially higher value.

11. *Superior Nursing Homes, Inc. v. City of Wausau, Board of Review,* 37 Wis.2d 570, 155 N.W.2d 670 (1968)

It is the obligation of the assessor and BOR to determine fair market value of property from best competent evidence available, which may or may not coincide with the construction costs less depreciation.

12. *Dolphin v. Board of Review of Village of Butler,* 70 Wis.2d 403, 234 N.W.2d 277 (1975)

A property owner went to the BOR with three separate appraisals of the property in question. No other testimony was presented and the Board stated that they would notify the property owner by mail of its decision. After the hearing, the Board went into executive session with the assessor present, but not the property owner. At this session, the assessor proceeded to question the property owner's appraisals. Based on this information the assessment was reduced, but not to what the property owner's appraisals had indicated.

The court held that the executive session was more than a mere deliberation session. It was closer to a continuation of the quasi-judicial hearing but without the potentially bothersome presence of the objecting property owner. This session was ruled improper and amounted to a jurisdictional error on the part of the BOR.

J. Appeals

Once the BOR has adjourned, the appeal of an assessment must follow the procedures outlined in the Wisconsin Property Assessment Manual, Chapter 21: Board of Review and Assessment Appeals. Whenever the valuation of property is being questioned, the property owner must have first appeared before the BOR and presented sworn oral testimony.

1. *State ex rel. J.S. Stearns Lumber Co. v. Fisher,* 124 Wis. 271, 102 N.W. 566 (1905)

"In order for the appellate court to remove the findings of the Board, the evidence must be overwhelmingly against the Board's findings."

2. *Milwaukee County v. Dorsen,* 208 Wis. 637, 242 N.W. 515 (1932)

A property owner who does not appear before the BOR and object to the validity of the tax sought to be imposed, cannot thereafter question the tax imposed on either the property or the income.

3. *Highlander Co. v. City of Dodgeville,* 249 Wis. 502, 25 N.W.2d 76 (1947)

An assessment on property on any basis other than the full value obtainable at private sale, as required by statute, is illegal and if the assessment is so substantially out of line with other assessments as to impose an inequitable tax burden, the property owner may proceed under state law (sec. 74.37, Wis. Stats.), relating to the recovery of taxes unlawfully assessed.

4. *Central Cheese Co. v. City of Marshfield,* 13 Wis.2d 524, 109 N.W.2d 75 (1961)

Where the BOR had adjourned sine die, it could give no further consideration to the assessment.

5. *Marina Fontana v. Village of Fontana-On-Geneva Lake,* 69 Wis.2d 736, 233 N.W.2d 349 (1975)

Property owners brought action against the village under state law (sec. 74.37, Wis. Stats.), (Recovery of Illegal Taxes) claiming an excessive increase in the valuation of the real estate owned by them. They also claimed that they were not given notice of the increased assessment even though it was in excess of $100 as required by sec. 70.365, Wis. Stats. The village countered these claims by pointing out that according to the case of Pelican Amusement Co. v. Pelican, 13 Wis. 2d 585, any objection to the assessment must begin at the BOR. The property owners had not appeared at the Board. The village also contended that the property owners failed to properly plead which alternative provision of sec. 74.74, Wis. Stats., they relied on for the reassessment of the property taxes. The court found that the Pelican case was decided in 1961 and that sec. 70.365, Wis. Stats., was enacted two years later. This later enactment of sec. 70.365, Wis. Stats., modified the holding in the Pelican case. The failure to give the required notice of assessment waived the property owner's obligation to appear at the BOR. The court dismissed the village's second contention that the property owners did not properly plead which alternative provision of sec. 74.74, Wis. Stats., because the responsibility of determining which alternative to proceed under, lies with the trial court.

6. *State ex rel. Geipel v. City of Milwaukee,* 68 Wis.2d 726, 229 N.W.2d 585 (1975)

Scope of review by certiorari is strictly limited in Wisconsin…the reviewing court may consider only the following:

1. Board kept within its jurisdiction
2. It (the BOR) acted according to law
3. Its action was arbitrary, oppressive or unreasonable and represented its will and not its judgment
4. Evidence was such that it might reasonably make the order or determination in question

XVI. Glossary

Ad valorem tax – in reference to property, a tax based upon the value of the property

Arm's-length sale – sale between two parties neither of whom is related to or under abnormal pressure from the other (see Market value)

Assessed value – dollar amount assigned to the taxable property, both real (by parcel) and personal (by owner), by the assessor for the purpose of taxation. Assessed value is estimated as of January 1 and will apply to the taxes levied at the end of that year. Assessed value is called a primary assessment because a levy is applied directly against it to determine the tax due. Accurate assessed values ensure fairness between properties within the taxing jurisdiction. (see Equalized value for fairness between municipalities)

Assessing – act of valuing a property for the purpose of establishing a tax base

Assessment – see "assessed value"

Assessment district – assessor's jurisdiction; it may or may not be an entire tax district. Any subdivision of territory whether whole or part of a municipality in which a separate assessment of taxable property is made. Such districts may be referred to as taxing districts, administrative districts or special purpose districts. (see sec. 70.08, Wis. Stats.)

Assessment level – relationship between the assessed value and the equalized value of non-manufacturing property minus corrections for prior year over or under charges within a municipality–town, village or city. For example, if the assessed value of all the property subject to property tax in the municipality is $2,700,000 and the equalized value (with no prior year corrections) in the municipality is $3,000,000 then the "assessment level" is said to be 90 percent ($2,700,000 ÷ $3,000,000 = .90 or 90%).

Assessment ratio – relationship between the assessed value and the fair market value For example, if the assessment of a parcel which sold for $150,000 (fair market value) was $140,000, the assessment ratio is said to be 93 percent (140,000 divided by 150,000). The difference in the assessment level and the assessment ratio is that the level typically refers to the taxation district; the ratio refers to the individual parcel. The assessment ratio does not apply to agricultural lands, agricultural forest, or undeveloped lands.

Assessment roll – official listing of all properties within a given municipality (town, village, city) by ownership, description, and location showing the corresponding assessed values for each

Assessment year – period of time during which the assessment of all properties within a given assessment district must be completed; the period between tax lien dates.

Assessor – administrator charged with the assessment of property for ad valorem taxes; the precise duties differ from state to state depending upon state statutes

Board of Review (BOR) – quasi-judicial board charged with the responsibility of raising or lowering assessments proven incorrect as well as correcting any errors in the assessment roll. BOR consists of a clerk and selected municipal officers (other than the assessor) or citizens. It hears all objections to the amount or valuation of property if objections are made in writing and filed with its clerk before adjournment of public hearings. The Board examines the assessment roll or rolls and corrects all apparent errors in description or calculation, adds all omitted property to the assessment roll, and determines whether an assessor's valuation is correct from evidence brought before it. It cannot determine exempt or taxable status of property.

Comparable property – property that is similar to your property in such things as location, style, age, size, and other physical features, depending on specific market preferences

Doomage assessment – process of arriving at an assessment from the best information available when the assessor is denied the opportunity to physically inspect a property; making an assessment without actually viewing the property or receiving and/or accepting the taxpayer's declaration of personal property.

Equalized value – estimated value of all taxable real and personal property in each taxation district, by class, as of January 1 and certified by DOR on August 15 of each year. The value represents market value (most probable selling price), except for agricultural property, which is based on its use (ability to generate agricultural income) and agricultural forest and undeveloped lands, which are based on 50 percent of their full value.

Equated value – dollar amount placed on individual parcels of manufacturing property in a taxation district for tax collection purposes. The value is calculated by multiplying the market value of the property as determined by DOR times the assessment level of all other property within the taxation district.

Equity – in reference to property taxes, a condition in which the tax load is distributed fairly (or equitably), based on the concept of uniformity provided in the state constitution (i.e., each person's share of the tax is based on each property's value compared to the total value of all taxable property). Typically, this would require periodic reviews of the assessments (local revaluations) to account for the constantly changing economic factors impacting property. In practical terms, you have equity in taxes when the assessed value of each property bears the same relationship to market or use value. In reference to value, it is the owner's financial interest in the property remaining after deducting all liens (including mortgages) and charges against it.

Expert help – is employed when the governing body of a municipality determines that it is in the public interest to appoint such help to aid in making the assessments in order that they may be equitably made and in compliance with the law. The expert help may be a private firm or person, or a DOR employee.

Fractional assessment – when the assessment is made at some percentage of the full value as determined by policy by the government

Full value – (1) value at 100 percent of the value standard. This is the value that should be applied in assessing the property per Wisconsin Statutes, see the WPAM. (2) The same as equalized value, however is often used when referring to the value of school and special districts.

General property tax – the following elements must be present: (1) a dollar amount of levy, (2) total assessed values of individual properties (parcels of real property/personal property items), and (3) uniform rate of taxation within the same common area applied to all taxable real and personal property within that area

Levy – amount of tax imposed by a taxation jurisdiction or government unit

Lien – charge against property whereby the property is made the security for the payment of a debt

Market value – most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated;
2. Both parties are well informed or well advised, and acting in what they consider their own best interests;
3. Reasonable time is allowed for exposure in the open market;
4. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
5. Price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale

Mass appraisal – process of valuing a universe of properties, as of a specified date, utilizing standard methodology, using common data and allowing for statistical testing

Mill rate – mill is one thousandth of one dollar. Tax rates are often expressed in mills per dollar

Example:

Tax = 3,000 Taxable assessed value = 100,000

Mill rate = 3,000/100,000 = 0.03 of a dollar per dollar of taxable assessed value

Municipal Assessment Report (MAR)– was previously called the Assessor's Final Report (AFR). The assessor electronically files the MAR with DOR. It can be filed as an "Estimate" (before the BOR), as a "Final" (after the BOR), or as an "Amended" report to make changes to a previously filed "Final" version. This electronic report provides changes in assessed values and reasons for the changes between the prior year's assessed values and the current year's assessed values of the entire taxation district. The assessor must file an estimated or final version of this report by the second Monday of June.

Notice of Changed Assessment – written notification to a property owner of the assessed value of certain properties described therein; mandated by law to be given to each property owner following a change in value of the property. The assessor is not required to provide notice if land is classified as agricultural land, as defined in sec. 70.32(2)(c)1g. Wis. Stats., for the current year and previous year and the difference between the assessments is $500 or less.

Over assessed – condition wherein a property is assessed proportionately higher than comparable properties

Parcel identification (PIN) – identification number, assigned to a parcel of land to uniquely identify that parcel from any other parcel within a given taxing jurisdiction

Property record card – document specially designated to record and process specified property data; may serve as a source document, a processing form; and/or a permanent property record

Reassessment – revaluation of all properties within a given jurisdiction for the purpose of establishing a new tax base. When a written complaint is made to the Wisconsin Department of Revenue by the owners of 5 percent or more of the assessed valuation of the property within a municipality stating that the assessment of property in the municipality is not in substantial compliance with the law and that the interest of the public would be promoted by a reassessment, the department can order such actual doing over of the assessment roll (reassessment) of all or part of the taxable property in municipality.

Recuse – to disqualify oneself from hearing an objection due to interest or prejudice, as defined by state law

Revaluation – placing new values on all taxable property for the purpose of a new assessment. The previous year's assessment roll is not affected. The term is often used in conjunction with sec. 70.055, Wis. Stats, where expert help can be hired to work with the assessor in revaluing the district.

Sales ratio study – statistical analysis of the distribution of assessment or appraisal-to-sale ratios of a sample of recent sales made for the purpose of drawing inferences regarding the entire population of parcels from which the sample was abstracted

Tax bill – itemized statement showing the amount of taxes owed for certain property described therein and forwardable to the party or parties legally liable for payment thereof

Tax exemption – either total or partial freedom from taxation granted by a specific state statute

Tax levy – in reference to property taxes, the total revenue realized by the tax

Tax mapping – creation of accurate representations of property boundary lines at appropriate scales to provide a graphic inventory of parcels for use in accounting, appraising and assessing. Such maps show dimensions and the relative size and location of each tract with respect to other tracts. Also known as assessment maps and cadastral maps.

Tax rate – rate generally expressed in dollars per hundred or dollars per thousand (mills) applied against the tax base (assessed value) to compute the amount of taxes. The tax rate is derived by dividing the total amount of the tax levy by the total assessed value of the taxing district.

Tax roll – official list showing the amount of taxes, special assessments and charges levied against each parcel and item of personal property in the municipality

Taxation – right of government to tax property to support the government

Taxation district – town, village, or city. If a city or village lies in more than one county, the taxation district is the portion of the city or village that lies within each county. (see sec. 74.01(6), Wis. Stats.)

Taxing jurisdiction – entity which is authorized by law to levy taxes on general property which is located within its boundaries (see sec. 74.01(7), Wis. Stats.). (ex: In addition to towns, villages and cities, this includes school districts, sewerage districts and lake rehabilitation districts)

Uniformity – constitutional requirement that the taxable property must bear its proportionate share of ad valorem basis taxes. As applied to assessing, a condition wherein all properties are assessed at the same ratio to market value, or other standard of value depending upon the particular assessing practices. Following a 1974 amendment to the constitution, agricultural land may be non-uniform with other property, but must be uniform within its class. The standard for value for agricultural property is its value in use.

Use-value – value a specific property has for a specific use. Beginning in 2000, agricultural property is assessed according to its use as farmland instead of its market value as indicated by sales. The guideline values are based on 5-year average income and expense data modified by the tax rate in each taxation district in the state.

Use-value assessment – assessment based on the value of the property as it is currently used, not its market value. This only applies to agricultural land. The guidelines for the use values are based on administrative rules, and developed by DOR staff serving as support for the Farmland Advisory Council who adopts the values.

XVII. BOR Statutory Index

Topic	Sub-Topic	Statute
BOR Profile		
	Organization	70.46
	Statutory Authority	70.46, 70.47
	Membership of Board	70.46
	Duties of the Board	70.47(6)(6m) (7)(8)(9)(10) (12)
	Duties of the Clerk	70.46(1)(2); 70.47(2)(3)(4), (5),(6m)(6r)(7), (8)(9)(12) (17); 70.48; 70.52; 70.57
	BOR Records	70.45; 70.46; 70.47; 70.48; 70.49; 70.50; 70.52
	Duties of Chairperson	70.47
	Duties of Assessor	
	a) Before BOR	70.365; 70.45; 70.49; 70.50
	b) At BOR	70.46(1); 70.47(7)(af); 70.48
	Duties of Property owner	70.35(4); 70.47(7)(a to af); 70.47(13)(16)(a)
	Removal of Members	70.47(6m)
Hearings		
	Notices	70.365, 70.47(2)(3)
	a) Assessment change	70.365
	b) Meeting	70.365
	c) Hearing	70.47(2m)
	Public Records	70.45, 70.47(8), 70.52
Hearings General Proceedings		
	Meeting Date	70.47(1)
	Meeting Location	70.47(1)
	Meeting Length	70.47(3)(a), (b)
	Selection of Offices	70.47(3)(a)
	Alternate Meeting Dates	70.47(3)
	Alternate Meeting Notice	70.47(3)
	Assessment Roll Not Complete	70.47(3)
	Who Can Appear At BOR	70.47(8)
	Swearing Witnesses	70.47(8)(a)
	Order of Testimony	70.47(8)(b)
	Examination By Board Members	
	Subpoena of Witnesses	70.47(8)(d)
	Adjournment	70.47(3)(aL), (4)
	Notice of Determination	70.47(12)
	Recording Testimony	70.47(8)(e)

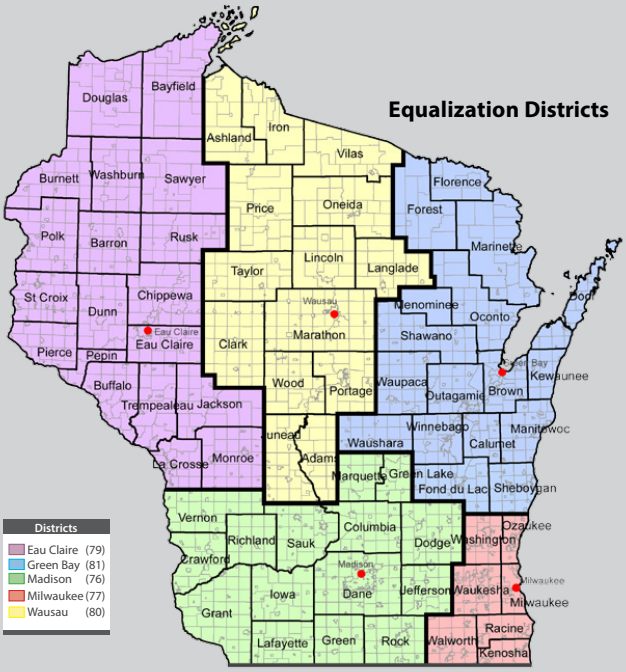
Topic	Sub-Topic	Statute
Hearings Presentation of Evidence	Assessor's Affidavit	70.49
	Presumption of Correctness	70.47(8)(i)
	Burden of Proof	70.47(7)(ae)(af), (8)(h), (9)
	Sworn Oral Testimony	70.47(8)
	Creditable Evidence	70.47(7)(8)
Hearings Filing an Objection	Objection Form	70.47(7)(a)
	When Objections Can Be Filed	70.47(7)(a)
	Time of Hearing	70.47(3)(ah), (7)(a)
	Waiving of 48-hour Notice	70.47(3), (7)(a)
	Completing Objection Form	70.47(7)(a)
Hearings Oral Testimony	Who Can Appeal	70.47(8)
	Order of Testimony	70.47(8)
	Sworn Oral Testimony	70.47(8)
	Swear of Assessor	70.47(8)(a)
	Assessor's Testimony	70.48
	Evidence Considered by Board	70.47(8)(9)
Witnesses	Call by Board	70.47(8)(d)
	Witness Expenses	70.47(8)(e)
	Assessor Attendance	70.48
Quorum	Majority Requirement	70.47(1)
	Number of Members Required to Hold Hearing	70.47(1), (6m)(c)
	Requirements to Vote	70.47(9)(b)
	Tie Votes	70.47(9)(a)
Decisions	After Hearing All Evidence	70.47(9)
	Deliberations	70.47(6), (8)(g), (9)
	Evidence Considered	70.47(7)(ad to af) (8)(9)
	BOR Member Fraud	70.502

XVIII. Further Appeal Procedures

Topic	Sub-Topic	Statute
Notice of Decisions		
	Prepared by Clerk	70.47(12)
	When Prepared	70.47(12)
	Appeal Rights	70.47(13), 70.85
Summary of Proceedings		
	Prepared by Clerk	70.47(17)
Appealing BOR Decision		
	Required Information	70.47(17)
	Circuit Court	70.47(13)(16)
	a) Review of Record	70.47(13)(16)
	b) Remand Back to BOR	70.47(13)
	c) Review Process	70.85

XIX. Contact Information

Department of Revenue - Equalization District Offices



Wisconsin Counties - Alphabetical List

County		District Office	County		District Office	County		District Office
Code	Name		Code	Name		Code	Name	
01	Adams	80	25	Iowa	76	48	Polk	79
02	Ashland	80	26	Iron	80	49	Portage	80
03	Barron	79	27	Jackson	79	50	Price	80
04	Bayfield	79	28	Jefferson	76	51	Racine	77
05	Brown	81	29	Juneau	80	52	Richland	76
06	Buffalo	79	30	Kenosha	77	53	Rock	76
07	Burnett	79	31	Kewaunee	81	54	Rusk	79
08	Calumet	81	32	La Crosse	79	55	St. Croix	79
09	Chippewa	79	33	Lafayette	76	56	Sauk	76
10	Clark	80	34	Langlade	80	57	Sawyer	79
11	Columbia	76	35	Lincoln	80	58	Shawano	81
12	Crawford	76	36	Manitowoc	81	59	Sheboygan	81
13	Dane	76	37	Marathon	80	60	Taylor	80
14	Dodge	76	38	Marinette	81	61	Trempealeau	79
15	Door	81	39	Marquette	76	62	Vernon	76
16	Douglas	79	72	Menominee	81	63	Vilas	80
17	Dunn	79	40	Milwaukee	77	64	Walworth	77
18	Eau Claire	79	41	Monroe	79	65	Washburn	79
19	Florence	81	42	Oconto	81	66	Washington	77
20	Fond du Lac	81	43	Oneida	80	67	Waukesha	77
21	Forest	81	44	Outagamie	81	68	Waupaca	81
22	Grant	76	45	Ozaukee	77	69	Waushara	81
23	Green	76	46	Pepin	79	70	Winnebago	81
24	Green Lake	76	47	Pierce	79	71	Wood	80

Equalization Bureau
Contact Information

Eau Claire District Office (79)
610 Gibson St, Ste. 7
Eau Claire, WI 54701-2650
eqleau@wisconsin.gov
Ph: (715) 836-2866 Fax: (715) 836-6690

Green Bay District Office (81)
200 N. Jefferson St, Ste. 126
Green Bay, WI 54301-5100
eqlgrb@wisconsin.gov
Ph: (920) 448-5195 Fax: (920) 448-5207

Madison District Office (76)
Mailing Address
PO Box 8909 #6-301
Madison, WI 53708-8909

Street Address
2135 Rimrock Rd #6-301
Madison, WI 53713-1443
eqlmsn@wisconsin.gov
Ph: (608) 266-8184 Fax: (608) 267-1355

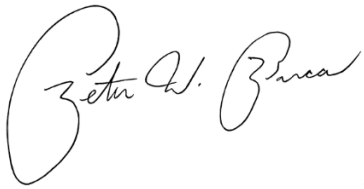
Milwaukee District Office (77)
819 N. 6th St, Rm. 530
Milwaukee, WI 53203-1682
eqlmke@wisconsin.gov
Ph: (414) 227-4455 Fax: (414) 227-4071

Wausau District Office (80)
730 N. Third St
Wausau, WI 54403-4700
eqlwau@wisconsin.gov
Ph: (715) 842-5885 Fax: (715) 848-1033

Certification Statement

As the Secretary of the Wisconsin Department of Revenue (DOR), I have reviewed this guidance document or proposed guidance document and I certify that it complies with secs. 227.10 and 227.11, Wis. Stats. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or rule that has been lawfully promulgated. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.

DEPARTMENT OF REVENUE



Peter Barca

Secretary of Revenue