

2017 Annual Assessor Meeting Questions

The following questions were asked during the 2017 DOR Annual Assessor Meetings that were conducted in Eau Claire, Wausau, Green Bay, Madison, and Pewaukee. Please refer to the [Wisconsin Property Assessment Manual](#) (WPAM) for more detail on many of these subjects.

A. Computer Exemption

1. How does an assessor report 2017 exempt computer value corrections?

- Assessors file an amended Exempt Computer Report (ECR) to correct exempt computer values.
- NOTE: corrections made to 2017 exempt computer values do not impact computer aid payments
 - The July 2018 aid payment will be based on the July 2017 payment
 - The July 2017 payment was calculated based on the 2016 Exempt Computer Report (ECR)

2. Will municipalities still receive payments for exempt computers?

Yes. 2018 computer aid payments will be based upon 2017 payments multiplied by 1.0147. For 2019 computer aid payments, a factor equal to one plus the consumer price index will be applied to 2018 payments. Starting in 2020, computer aid payments will be frozen.

3. How does an assessor correct a dooamage with the elimination of exempt computer reports?

The aid payments are based upon values reported in 2016. Dooamage corrections under 70.47(6), 70.43, or 70.44, address individual accounts. These adjustments do NOT impact the exempt computer aid payments.

B. Schedule C of Statement of Personal Property (PA-003) Exemption

1. Do you have a list of what property should be reported on each schedule?

- The PA-003 provides general descriptions of property to report on each schedule
- Chapters 15 and 19 of the [WPAM](#) provides additional information

2. What if property is switched between schedules?

Assessors should compare the 2017 PA-003 with 2018. Request additional information for large changes.

Note: personal property aid payment is based upon 2017 taxes

3. How are corrections made?

The assessor can update a current assessment until signing that year's affidavit. The assessor and clerk would provide the final numbers to DOR on the Municipal Assessment Report (MAR) and Statement of Assessment (SOA).

4. Does a business need to file a Statement of Personal Property (PA-003) each year?

Yes, property assessment is an annual process requiring a review of taxable property in the municipally each January 1. The assessor needs to review each PA-003 and confirm all taxable property is reported.

C. Milewski v. Town of Dover

1. Does DOR know if any special inspection warrants have been used?

DOR is not aware of an assessor using a special inspection warrant.

2. Before entering a property, do I have to explain their rights as a property owner?

- [2017 Act 68](#) created a notice requirement for property owners when an assessor needs to view the residence. When requesting view of a property, assessors must contact the property owner with a letter ([Request to View Property Notice - PR 300](#)) sent through regular mail. Allow 14 calendar days for a response. In addition, during a revaluation, contact may be supplemented with a notice in the local paper or a notice included with a recent tax bill. This supplementary contact during revaluation also helps assessors avoid criminal trespass.

2017 Annual Assessor Meeting Questions

- If property owners do not respond to the initial contact, an optional next step is to obtain consent or denial to view the property in person. If the property owner is unavailable, leave a door hanger listing contact information. For any remaining unresponsive property owners, send a letter ([PR 300](#)) through certified mail. Allow 14 calendar days to respond. Record denials by maintaining a list.
- See 2018 WPAM pages 5-10, 9-21 and the appendix for special inspection warrant templates.

3. How should an assessor inspect commercial property with an area open to the public (e.g. restaurant)?

Commercial property has privacy rights. Apply the residential notification process to commercial property establishing a consistent process for all property types.

4. Can I use a drone to view property?

- DOR does not recommend drone use unless you have property owner consent.
- Drone use can be considered trespass and require a warrant or consent. The use of drones may expose the assessor and municipality to liability.
- There are two benchmarks to measure the extent of rights of a landowner and the public to airspace:
 - (1) the impact on the landowner's existing use of the land and enveloping airspace
 - (2) the minimum safe flight altitude. FAA regulations codify the second benchmark, while the first benchmark is [made](#) on a case-by-case basis by the courts.
- This is an evolving area of the law. Note, current state laws include:
 - [942.10](#): whoever uses a drone to photograph, record, or otherwise observe another individual in a place or location where the individual has a reasonable expectation of privacy is guilty of a Class A misdemeanor.
 - [114.03](#): ownership of the space above the land and water is vested in the owners of the surface beneath, subject to a right of flight.
 - [114.04](#): an aircraft may not fly at a low altitude to interfere with the owner's existing use of the land or water, or the space over the land or water
- Federal law may also impact your use of drones

5. Is a building permit considered implied consent?

If a building permit includes specific language allowing property tax assessor access to the property, consent is documented by signing and submitting the building permit. However, absent specific language allowing the assessor access – there is no consent, implied or otherwise.

6. What if a property owner, who refused entry by the assessor, brings new information to the Board of Review (BOR)?

This is an evidentiary issue for BORs. The 2018 training material will include information on weighing evidence in light of property access to all parties. State law allows the BOR to subpoena information. State law continues to provide the assessor with the presumption of correctness.

7. Would adding language to the building permit be a good tool for municipalities to gain access?

Yes. If the municipality issues building permits, this may be an efficient and effective route to document consent.

8. Can the assessor obtain information from the building inspector?

Yes, this information is public record and available to the assessor.

9. How can assessors set assessments when they are not allowed into the properties that have sold?

Develop values using the best information available. If applicable, use a special inspection warrant to achieve the view required to establish value.

10. If you find something illegal when viewing a property through a search warrant, do you report it to authorities?

Law enforcement accompany the assessor while conducting the property view and would be the proper authority to both view and act on this type of information.

2017 Annual Assessor Meeting Questions

D. General

1. Is there an allowable charge to complete an open records request?

- Only actual, necessary, and direct costs may be charged for an open records request. These must be supportable amounts, not arbitrary, and never for the purpose of compensation to complete redaction.
- Under state law ([sec. 19.35\(3\), Wis. Stats.](#)), fees fall into one of three categories:
 - a. Location of the record
 - b. Reproduction fees
 - c. Shipping or mailing fees
- In general, authorities may only impose fees as provided by state statutory law. Local government cannot establish public record copying fees that deviate from actual, necessary, and direct costs of reproduction.
- An authority may provide copies of a record without charge or at a reduced charge if the authority determines a waiver or reduction of fee is in the public interest.
- Resource: [Department of Justice Open Records Guide](#)

2. Does a church keep the exemption if it constructs a parking lot where the building was and leases out the spaces under the updated religious exemption ([sec. 70.11\(4\)\(a\)\(2\), Wis. Stats.](#))?

- The restrictions under state law (Sec. 70.11(4)(a)) remain for this exemption. Ownership and exclusive use by the church are a requirement.
- Leasing space to a non-church entity is not exclusive use and would result in the property being taxable

3. Will there be modifiers for the 2001 WPAM V2 for use in 2018?

No. DOR is not providing modifiers for the 2001 costs.

4. Why is there a need for the Assessor 3 certification?

- There are five levels of assessor certification in Wisconsin: Assessment Technician, Property Appraiser, Assessor 1, Assessor 2, and Assessor 3. The duties an individual is authorized to perform are progressively more complex as the certification level becomes higher. An individual certified at the higher level is allowed to perform the duties of any subordinate certification level, except for the Assessor 3 level. An Assessor 3 can only perform duties associated with the Assessor 3 certification.
- Starting in 2019, the Assessor 3 is required for municipalities with a 2016 Equalized Value of the commercial class of property greater than \$1,000,000,000. Municipalities requiring this level are listed in Chapter 2 of the 2018 WPAM.

5. *Regency West v. C. Racine* – are the courts telling assessors to use the income approach (tier 3 evidence) over the sales comparison approach (tier 2)?

The court held the following when discussing the tiers of assessment analysis:

- With the second tier of appraisal methods, an appraiser values a property by considering recent, arm's length sales of reasonably comparable properties. The court held that for a property to be reasonably comparable, other properties must have similar restrictions to the subject property. This disallows using subsidized and market rate properties as comparable. Furthering this point, the court held that comparable sales may be used only of the same type of subsidized housing, i.e., Section 42 Subsidized Housing with Section 42 Subsidized Housing. The court stated, "...failure of an appraiser to consider the restrictions specific to the subject property is a failure to follow Wisconsin law."
- There is no directive from the court to use one approach over another. Rather, a definition of what comprises the comparable pool of property for subsidized housing and that is housing with similar governmental restrictions.

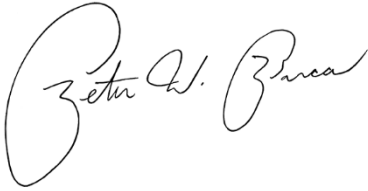
2017 Annual Assessor Meeting Questions

- Footnote 19: *"We do not consider the appraisals of Peter Weissenfluh and Dan Furdek because their appraisals exceeded the valuations of Racine for both 2012 and 2013. See Trailwood Ventures, LLC v. Vill. of Kronenwetter, 2009 WI App 18, ¶¶ 12-13, 315 Wis.2d 791, 762 N.W.2d 841 (concluding that a taxation district that has accepted the payment it requested has agreed that its taxation value is the maximum value that it may seek; Wis. Stat. § 74.37 permits a refund to the taxpayer or may uphold the status quo, but there is no authority for deficiency judgments)."*
 - The cited precedent for the footnote is *Trailwood Ventures, LLC v. Village of Kronenwetter*. In an action for recovery of excessive taxation under Wis. Stat. § 74.37, there are only two outcomes available – (1) a refund to the taxpayer for overpayment or (2) judgment for the taxing authority that there was no overpayment. "In an excessive taxation case, a court may not determine that the tax paid by the taxpayer was deficient. In other words, that the tax payment accepted by the taxing authority was not sufficient and increase the tax. The taxation district has, by accepting payment, agreed that the tax value collected is the maximum value it seeks."
 - Simply stated, an excessive assessment appeal cannot result in the taxpayer paying more than that alleged to be the excessive payment. In the present case, the court felt that one aspect of considering the city's expert appraisals (that were over the assessed value) would be to come too close to this outcome and was a factor to be explained in their decision to discount the appraisals. However, this was not important enough to discuss through examination in the text but to mention as dictum in a footnote.

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

A handwritten signature in black ink, reading "Peter W. Barca". The signature is written in a cursive style with a large initial "P" and "B".

Peter Barca

Secretary of Revenue