

## **Board of Review "The Basics"\***

### **Board of Review**

- The Board of Review is a quasi-judicial body:
  - Members to sit as judges to hear evidence;
  - Board members may not have any ex parte contact.
- The Board does not independently set valuation.
- The Board does not do-over the work of the Assessor.
- The Board cannot substitute their judgment or idea of value for the Assessor's opinion.
- The Board cannot change any value fixed by the Assessor, except upon sworn oral testimony produced for that purpose.
- The Board shall correct all errors in description and computations.
- The Board may subpoena witnesses, if necessary.
- The Board makes decisions based on evidence presented by persons under oath.
- The Board is not an assessing body.
- The Board's function is not of valuation.
- The Board is bound to accept the Assessor's assessment as correct unless there is competent sworn testimony not contradicted by other evidence that proves the assessment to be incorrect.
- The Board cannot rule on whether a property has exempt status.

### **Board of Review Hearing**

- All meetings of the Board of Review shall be publicly held and open to all citizens at all times and no closed sessions can be held at anytime or for any purpose.
- Hearings are either tape recorded or recorded by court stenographer for the purposes of creating a record of the proceedings (this requires that all persons speaking at the hearing shall speak clearly and identify themselves so that an adequate and clear record of the proceedings is made).
- Hearings are conducted much as in a court of law.
- Evidence is presented through sworn oral testimony with cross-examination of witnesses.

## Methods of Valuation

- Recent sale of the subject property. Sale must be an "arms-length" transaction in order to be used as evidence of value.
- Recent sales of other comparable properties.
- Other evidence of value.
- The best evidence of value will generally be either a recent sale price of the subject property or recent sale prices of other comparable properties.
- Follow the "Rules of Best Evidence."

## Clerk of the Board of Review/Duties at Hearing (recommended that Clerk follow script)

- Clerk shall introduce the case.
- Clerk to read basic information into record: property owner, property address, property tax key number, property's assessment per the Assessor.
- Clerk asks all parties who are going to testify to stand and be sworn.
- Clerk to swear all witnesses, including the Assessor (oaths found in Wis. Stat. § 906.03):
  - Sample oath: **Do you solemnly swear that the testimony you shall give in this matter shall be the truth, the whole truth and nothing but the truth, so help you God?**
  - Or in the alternative: **Do you solemnly, sincerely and truly declare and affirm that the testimony you shall give in this matter shall be the truth, the whole truth and nothing but the truth; and this you do under the pains and penalties of perjury?**
- Clerk to state names of all sworn witnesses for the record.
- Clerk should keep list of persons speaking and in the order in which they spoke.
- Clerk to fill out Findings of Fact, Determinations and Decision sheet during the hearing.
- Clerk (if member of BOR) may ask questions of witnesses.
- Clerk (if member of BOR) to vote.
- Clerk to record roll call vote on motion.

## Chair of the Board of Review/Duties at Hearing (recommended that Chair follow script)

- Read notice to Taxpayer into record.
- Ask Taxpayer to present case.
- Ask Assessor if he/she has any questions of Taxpayer.
- Ask Board of Review if they have any questions of Taxpayer.
- Ask Taxpayer if there are other witnesses in support of Taxpayer.
- Ask Assessor if he/she has any questions of Taxpayers' witness(es).
- Ask Board of Review if they have any questions of Taxpayers' witness(es).
- Ask Assessor to present his/her case.
- Ask Taxpayer if he/she has any questions of the Assessor.
- Ask Board of Review if they have any questions of the Assessor.
- Ask Taxpayer if there is any additional testimony.
- Ask Assessor if there is any additional testimony.
- Ask Taxpayer to briefly summarize the case.
- Ask Assessor to briefly summarize case.
- Close Testimony with statement on the record to close - it is very important that no further testimony be taken after the closing.
- Lead Board of Review in discussion, by following through the Findings of Fact, Determinations and Decisions form.
- Ask for a Motion based on the discussion.
- Call Roll Call vote on the motion.
- State Result of Decision based on the Motion results.

### **Assessor/Duties at Hearing**

- Cannot be a member of Board of Review.
- Must attend all hearings of the Board of Review (including the first meeting).
- Is an expert and his/her assessment carries a presumption of correctness.

- Cannot run the meeting or vote.
- Cannot answer questions once the testimony is closed.
- Cannot participate in deliberations of the Board of Review.
- Is not permitted to impeach his/her assessment once the assessment roll is signed.
- Must submit evidence sustaining his/her assessment.
- Must submit to examination by Taxpayer and by the Board of Review.
- Is required to provide full disclosure and make all books and records available (with limited exceptions, for example, if confidentiality ordinance for income purposes).
- At the hearing on objection, the Assessor should in each case submit: credentials, the definition of fair market value and the basis for the assessment.

### **Taxpayer/Duties at Hearing**

- Must give oral or written notice to clerk of Board of Review at least 48 hours before first meeting of Board of Review of intent to file objection (unless waived for good cause or extraordinary circumstances as required by law).
- Must file a written objection form within first two hours of first Board of Review meeting (after the assessment roll has been completed and signed):
  - Must use approved form for objection;
  - Form must be filled out completely (answering all questions);
  - Taxpayer must state his/her opinion of value of property;
  - Failure to answer all questions on form should be basis for refusal to hear objection.
- Will be barred from having a hearing or contesting the assessment if Taxpayer refused the Assessor's right to view the property after the Assessor made a reasonable written request by certified mail to view the property.
- If written appraisal(s) of the property are to be presented by the Taxpayer as evidence of value, the Taxpayer should have the Appraiser who prepared the appraisal present for sworn testimony in support of the appraisal and to answer questions of the Assessor and Board of Review in cross-examination.
- Taxpayer has burden of overcoming presumption of correctness granted by law to the Assessor's valuation.

- Taxpayer's evidence must conform to the statutory criteria and Wisconsin Property Assessment Manual (this is the same as the Rules of Best Evidence and Appeal Guide under Wis. Stat. s. 70.85).

### **The Three Golden Rules**

- The Assessor's valuation of property is prima facie correct and is binding on the Board of Review in the absence of evidence showing it to be incorrect.
- The Board of Review cannot change any value fixed by the Assessor except upon evidence presented to it by person(s) under oath.
- The evidence must be factual in nature; it is not just a matter of opinion.

Although the courts have acknowledged that assessment practices are an art, not a science, it is no longer recommended that the Assessor be sustained merely because there is a small percentage difference between the market value established by the Assessor and the Taxpayer's idea of value even though, usually based on the evidence, a small percentage difference will not be sufficient to warrant a change by the Board of Review.

\*This overview was prepared by Atty. John P. Macy of Arenz, Molter, Macy & Riffle, S.C., (920) 548-1340, and was reviewed and modified by Atty. Rick Stadelman of the Wisconsin Towns Association and the Equalization Directors and staff at the Wisconsin Department of Revenue.