



VILLAGE OF TWIN LAKES

105 East Main Street PO Box 1024 Twin Lakes, Wisconsin 53181
Phone (262) 877-2858 Fax (262) 333-3286

BOARD OF REVIEW MEETING Wednesday, June 7, 2023 – 1:00 p.m. Village Hall, 105 E. Main Street, Twin Lakes, WI

AGENDA

1. Call Board of Review to order
2. Roll Call: Members Tim Infusino, Lisa Wallerich, Phil Johnson, Harry Peters, Jeff Gross, Kathy Ticha (Alternate)
3. Confirmation of appropriate BOR and Open Meetings notices
4. Selection of Chairperson
5. Verification that at least one member has met the mandatory training requirements
6. Verification the Village ordinance for Confidentiality of Income and Expense Information has been provided to the Assessor
7. Discussion/Action on Adoption of policy regarding the Procedure for Sworn Telephone Testimony and Sworn Written Testimony
8. Discussion/Action on Adoption of policy regarding the Procedure for Waiver of BOR Hearing Requests
9. Announcement that Notices of Assessments were mailed and Open Book session was held on May 23, 2023
10. Filing and Summary of Annual Assessment Report by Assessor's Office, Associated Appraisal
11. Receive Assessment Roll and Assessor's Affidavit
12. Review and examination of assessment roll – correct description or calculation errors, add omitted property, and eliminate double assessed property
13. Discussion/Action – Certify all corrections of error
14. Verify with Assessor that open book changes are included in the assessment roll
15. During the first two hours, consideration of:
 - a. Waivers of the required 48-hour notice of intent to file an objection when there is good cause,
 - b. Requests for waiver of the BOR hearing allowing the property owner an appeal directly to the circuit court,
 - c. Requests to testify by telephone or submit a sworn written statement,
 - d. Subpoena requests, and
 - e. Act on any other legally allowed or required BOR matters.
16. Review Notices of Intent to File Objection

17. Objections to be heard
18. Deliberation and decision on objections
19. Schedule additional Board of Review meeting dates, if needed
20. Adjourn (to future date if necessary)

This meeting is taped for public record.

Objection Forms shall be filed within 48 hours of the Board of Review.

The Board shall be in session for 2 hours minimum unless meeting to adjourn when the roll is complete.

No official Board action will be taken; however, a quorum of the Village Board may be present.

NOTICE

UPON REASONABLE NOTICE, EFFORTS WILL BE MADE TO ACCOMMODATE THE NEEDS OF DISABLED INDIVIDUALS THROUGH APPROPRIATE AIDS AND SERVICES. IF A PERSON WITH A DISABILITY REQUIRES THAT THE MEETING BE ACCESSIBLE OR THAT MATERIALS AT THE MEETING BE IN AN ACCESSIBLE FORMAT, CALL THE VILLAGE OF TWIN LAKES CLERK'S OFFICE AT LEAST 48 HOURS IN ADVANCE TO REQUEST ADEQUATE ACCOMMODATIONS. TEL: 262-877-2858.

**VILLAGE OF TWIN LAKES
BOARD OF REVIEW POLICY ON PROCEDURE FOR
SWORN TELEPHONE OR SWORN WRITTEN TESTIMONY REQUESTS**

WHEREAS, Sec. 70.47(8), Wis. Stat. authorizes the Board of Review to consider requests from a property owner or the property owner's representative to testify under oath by telephone or to submit written statements to the Board of Review; and

WHEREAS, the Wisconsin Department of Revenue has determined that the legal requirements of the Notice to Appear at the Board of Review must be satisfied and the Objection Form must be completed and submitted to the Board of Review as required by law prior to a Request to Testify by Telephone or Submit Sworn Written Statement form being considered;

NOW, THEREFORE, the Board of Review of the Village of Twin Lakes, Kenosha County hereby adopts as the following policy:

1. PROCEDURE:

Before the Board of Review (BOR) can consider a request from a property owner or the property owner's representative ("property owner") to testify by telephone or submit a sworn written statement, the property owner must first complete and file with the BOR clerk the following documents:

- a. A timely Notice of Intent to appear at BOR;
- b. A timely Objection Form for Real Property Assessment (PA-115A); and
- c. A fully completed Request to Testify by Telephone or Submit a Sworn Written Statement at Board of Review (Form PA-814).

Requests must be filed with the BOR clerk within the first 2 hours of the BOR's first full meeting. If the owner fails to file the documents as required, the BOR will not consider the request.

2. CRITERIA:

The BOR may consider any or all of the following factors when deciding whether to grant or deny the request:

- a. The property owner's stated reason(s) for the request as indicated on the PA-814;
- b. Fairness to the parties;
- c. The property owner's ability to procure in-person oral testimony and any due diligence exhibited by the property owner in procuring such testimony;
- d. Ability to cross examine the person(s) providing the testimony;
- e. The BOR's technical capacity to honor the request; and
- f. Any other factors that the BOR deems pertinent to deciding the request.

3. EFFECTIVE DATE:

This policy shall be effective upon passage.

Adopted this 7th day of June, 2023.

By the Board of Review of the Village of Twin Lakes.

Attested by:

Board of Review Chairperson

Board of Review Clerk

**VILLAGE OF TWIN LAKES BOARD OF REVIEW POLICY ON
PROCEDURE FOR WAIVER OF BOARD OF REVIEW HEARING REQUESTS**

WHEREAS, Wis. Stat. §70.47(8m), authorizes the Board of Review to consider requests from a taxpayer or assessor, or at its own discretion to waive the hearing of an objection under Wis. Stat. §70.47(8) and allow the taxpayer to have the taxpayer's assessment reviewed under Wis. Stat. §70.47(13); and

WHEREAS, Wis. Stat. §70.47 (8m), further states that for purposes of this subsection, the Board of Review shall submit the Notice of Decision under Wis. Stat. §70.47(12), using the amount of the taxpayer's assessment as established by the municipal assessor as the finalized amount; and

WHEREAS, Wis. Stat. §70.47(8m), further states that for purposes of this subsection, if the Board of Review waives the hearing, the waiver disallows the taxpayer's claim on excessive assessment under Wis. Stat. §70.37(3), and, notwithstanding the time period under Wis. Stat. §70.37 (3)(d), the taxpayer has 90 days from the notice of hearing waiver in which to commence an action under Wis. Stat. §74.37(3)(d); and

WHEREAS, the Wisconsin Department of Revenue has determined that the legal requirements of the Notice to Appear at the Board of Review must be satisfied and the Objection Form must be completed and submitted to the Board of Review as required by law by the taxpayer prior to a Request for Waiver being considered;

NOW, THEREFORE, the Board of Review of the Village of Twin Lakes, Kenosha County hereby adopts the following policy:

1. PROCEDURE

Before the Board of Review (hereinafter BOR) can consider a request from a taxpayer or assessor, or at its own discretion waive the hearing of an objection, the taxpayer must first complete and file with the BOR Clerk the following documents:

- a. A timely Notice of Intent to appear at BOR; and
- b. A timely Objection Form for Real Property Assessment (PA-115A).

If the owner fails to file the documents as required, no hearing will be scheduled on the objection. If the owner files the documents as required and a request from the owner or assessor is made to waive the hearing of an objection, or if the BOR considers waiving the hearing at its own discretion, the BOR shall use the following criteria to make its decision.

2. CRITERIA

The BOR may consider any or all of the following factors when deciding whether to waive the hearing:

- a. The benefits or detriments of the BOR process
- b. The benefits or detriments of having a record for the Court review
- c. Avoidance of unruly, lengthy, burdensome appeals
- d. Ability to cross examine the person(s) providing the testimony
- e. Any other factors that the BOR deems pertinent to deciding whether to waive the hearing

3. EFFECTIVE DATE

This policy shall be effective upon passage.

Adopted this 7th day of June, 2023.

By the Board of Review of the Village of Twin Lakes.

Attested by:

Board of Review Chairperson

Board of Review Clerk

Board of Review – “THE BASICS”

The Three Golden Rules

Remember these “Golden Rules” for all property tax appeals.

(see pages 13-18 below when hearing evidence and making your determination):

1. The Assessor’s valuation of property is prima facie (presumed to be correct) and is binding on the Board of Review in the absence of evidence showing it to be incorrect.
2. The Board cannot change any value fixed by the Assessor except upon evidence presented to it by a person(s) under oath (or attestation-see page 33), that substantiates a specific change in value.
3. The evidence must be factual in nature, not just matter of opinion.

Board of Review

- The Board of Review is a quasi-judicial body.
 - Members sit as judges to hear evidence.
 - Board members may not have any ex parte contacts.
 - “Ex parte contacts” are contacts with a party or witness about an appeal that occur outside of the hearing or meeting.
- The Board does not independently set valuation.
- The Board does not re-do the work of the Assessor.
- The Board cannot substitute its judgment or idea of value for the Assessor’s opinion.
- The Board cannot substitute its change any value fixed by the Assessor, except upon sworn testimony produced for that purpose.
- The Board corrects all errors in descriptions 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 does not independently set value.
- 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 hear an income and expense objection unless the Assessor requested information (see Assessor’s Manual and Wis. Stat. § 73.03(2a)) is provided.
- The Board cannot rule on whether a property has exempt status. Wis. Stat. § 74.35(2m).
- A taxpayer may appeal, regardless of whether the Assessor was allowed to make a property inspection (see Video).

Board of Review Hearing

- All meetings of the Board of Review shall be publicly held and open to all citizens at all times. No closed sessions may be held at any time, for any purpose.

- Hearings are taped or recorded on a digital recorder or by a court stenographer for the purpose of creating a record of proceedings. This requires that all persons speaking at the hearing shall speak one at a time and clearly identify themselves so that an adequate 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, unless the Board previously granted permission for sworn written testimony.

Methods of Valuation

- Recent sale of the subject property. The sale must be an “arm’s-length” sale in order to be used as evidence of value. A recent sale of the subject property must also conform to sales of reasonably comparable sales.
 - “Arm’s-length sale” means a sale between two parties, neither of whom are related to, or under abnormal pressure from, the other.
- Recent sales of other reasonably 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 “Rules of Best Evidence” graphic (see page 19).

Market Value – the most probable price 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 the following apply:

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. A 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.
5. The 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.

Clerk of Board of Review Duties at Hearing

(recommend that Clerk follow script, see pages 33-34)

- Clerk introduces the case.
- Clerk reads the basic information into the record: property owner, property address, property tax key number, property assessment per Assessor.
- Clerk asks all parties who are going to testify to be sworn.
- Clerk swears in all witnesses (including the Assessor):
 - Sample oath: Do you all solemnly swear or affirm, in the matter now on hearing, to tell the truth, the whole truth and nothing but the truth, so help you God?
 - Recommend that Assessor be sworn in for *each* appeal.
- Clerk states names of all sworn witnesses for the record.
- Clerk asks the Assessor to state the estimated level of assessment for the current year.
- Clerk keeps a list of persons speaking and the order in which they spoke.
- Clerk fills out the Findings of Fact, Determinations and Decision sheet during the hearing (see pages 12-26).
- Clerk (if member of BOR) may question witnesses.
- Clerk (if member of BOR) votes.
- Clerk records the Roll Call Vote on the Motion.

Chair of Board of Review Duties at Hearing

(recommend that Chair follow script, see pages 35-36)

- Chair reads the notice to Taxpayers into the record.
- Chair asks the Taxpayer to present case.
- Chair asks the Assessor if s/he has any questions of Taxpayer.
- Chair asks the Board of Review members if they have any questions of Taxpayer.
- Chair asks the Taxpayer if there are other witnesses in support of Taxpayer.
- Chair asks the Assessor if s/he has any questions of Taxpayers' witness(es).
- Chair asks the Board members if they have any questions of Taxpayers' witness(es).
- Chair asks the Assessor to present his/her case.
- Chair asks the Taxpayer if s/he has any questions of the Assessor.
- Chair asks the Board members if they have any questions of the Assessor.
- Chair asks the Taxpayer if there is any additional testimony.
- Chair asks the Assessor if there is any additional testimony.
- Chair asks the Taxpayer to briefly summarize the case.
- Chair asks the Assessor to briefly summarize case.
- Chair closes the Testimony with a statement on the record to close – very important that no further testimony be taken.
- Chair leads the Board members in discussion by following the Findings of Fact, Determinations and Decisions Sheet.

- Chair asks for a Motion based on discussion.
- Chair calls for a Roll Call Vote on the Motion.
- Chair states the Result of Decision based on the Motion.

Assessor Duties at Hearing

(recommend that the Assessor follow Script to Support Valuation, see pages 37- 38)

- Assessor cannot be a member of the Board of Review.
- Assessor must attend all hearings of the Board (including first meeting).
- Assessor is an expert and his/her assessment carries presumption of correctness.
- Assessor is a witness so s/he cannot run the meeting, advise the Board, or vote.
- Assessor cannot answer questions once the testimony is closed.
- Assessor cannot participate in deliberations of the Board.
- Assessor is not permitted to impeach his/her assessment once the assessment roll is signed.
- Assessor must submit evidence sustaining his/her assessment.
- Assessor must submit to examination by the Taxpayer and by the Board.
- Assessor is required to provide full disclosure and make all books and records available (with limited exceptions, for example, if a confidentiality ordinance for income purposes applies).
- Assessor, at the hearing on objection, should be, in each case sworn in, then submit their credentials, definition of fair market value, and basis for assessment.

Taxpayer Duties at Hearing

- Taxpayer must give oral or written notice to the Clerk of the Board of Review at least 48 hours before the first Board meeting with her/his intent to file an objection (unless waived for good cause or extraordinary circumstances, as required by law).
- Taxpayer must file a written objection form within the first two hours of the first Board meeting (after the assessment roll has been completed and signed).
 - Taxpayer must use the approved objection form and fill in the objection form completely by answering all questions.
 - Taxpayer must state his/her opinion of the value of the property.
 - Taxpayer failure to answer all questions on the objection form should be basis for refusal to hear their objection.
- Taxpayer, if presenting written property appraisal(s) as evidence of value, should have the Appraiser who prepared the appraisal present, in person, to present sworn testimony in support of the appraisal and to answer questions of the Assessor and the Board in cross-examination.
- Taxpayer has the burden of overcoming presumption of correctness granted by law to the Assessor's valuation. Taxpayer's evidence must conform to the statutory criteria in Wis. Stat. § 70.47(7) and the Wisconsin Property Assessment Manual.

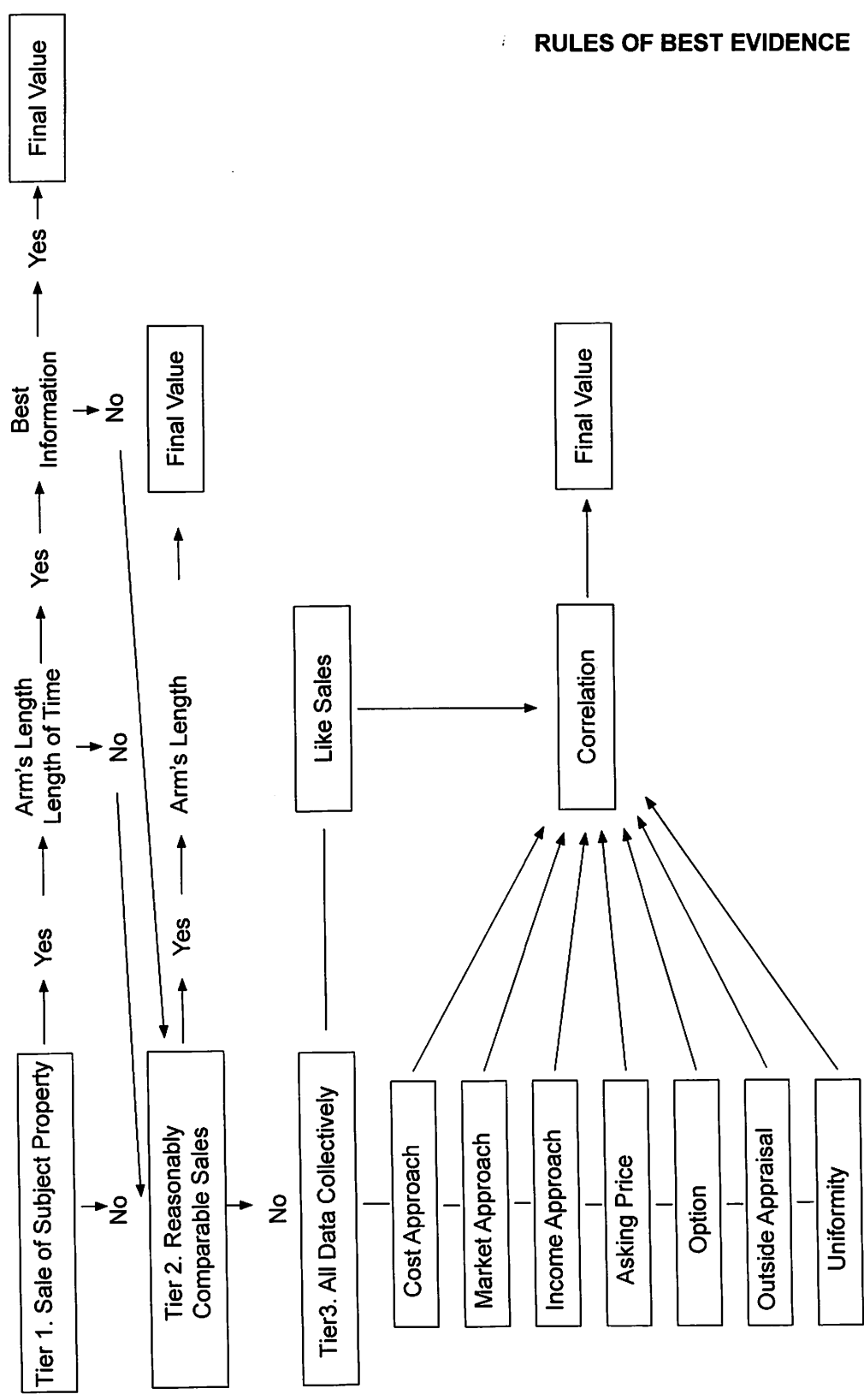
The Three “Golden Rules”

Do not forget, as noted in the beginning of “The Basics” (see pages 13 -18 herein), remember these “Golden Rules” for all property tax appeals, when hearing evidence and making your determination:

1. The Assessor’s valuation of property is "prima facie" (presumed to be correct) and is binding on the Board of Review in the absence of evidence showing it to be incorrect.
2. The Board cannot change any value fixed by the Assessor except upon evidence presented to it by persons under oath that substantiates a specific change in value.
3. The evidence must be factual in nature, not just a matter of opinion.

This outline was prepared by John P. Macy of Municipal Law & Litigation Group, S.C., (262) 548-1340, and was reviewed and modified by Rick Stadelman (now retired, formerly of the Wisconsin Towns Association), Philip Freeburg (retired) and Daniel Foth, UW-Madison Extension, Local Government Education, and the staff at the Wisconsin Department of Revenue.

**REAL PROPERTY VALUATION
RULES OF BEST EVIDENCE—WISCONSIN**



RULES OF BEST EVIDENCE

2023 BOR Materials
Introduction
Findings of Fact, Determinations and Decision Form

The following Findings of Fact, Determinations and Decision form is for the BOR Chair to use for each property assessment appeal. As noted in the BOR videos, it is very important to create a full and complete record that will aid any potential judicial review.

Using this form will ensure BOR Hearing transparency and fairness and help defend the municipality in the event of a taxpayer improper action claim.

The BOR Chair should use this form exactly as printed. This will create a full and complete record of how the BOR met its statutory obligations in reviewing each property assessment appeal and how the BOR made its assessment appeal decision.

Remember to use a separate Findings of Fact, Determinations and Decision form for each individual property assessment appeal.

Town/Village/City of _____

Board of Review

Findings of Fact, Determinations and Decision

- *Board of Review (BOR) Assessment Appeal Hearing must be held in open session.*
- *The BOR should make its decision only on the evidence presented.*
- *The BOR can hear the appeal immediately or at another time. If later, advise the taxpayer as to the case deliberation date and time.*
- *Complete the decision part of this form immediately after the case is decided.*
- *The BOR clerk can participate in completion of this form.*

A. PROPERTY IDENTIFICATION AND FINDINGS OF FACT

ASSESSMENT YEAR: 202____ Tax Key Number: _____

Personal Property Account Number (if applicable) _____

Property Address: _____

Property Owner: _____

Mailing Address: _____

January 1, 202____ Assessment Value: _____

Land: _____ Improvements: _____ Total: _____

Hearing Date: _____ Time: _____

Objector Received written confirmation of Hearing Date: Yes: _____ No: _____

(or) Both Objector and Assessor waived 48 hour notice of hearing: _____

Note: **Taxpayer must have filed written objection before or at Board of Review.**

Check one:

_____ Timely notice of "Intent to File an Objection" was provided by objector to clerk (either in writing or orally) at least 48 hours prior to first full session of Board of Review

Or

_____ Waiver was granted by Board of Review for:

_____ Good Cause, ***or***

_____ Extraordinary Circumstances

Board members present: _____

Board Members removed (if any): _____

Board Counsel Present: _____
Property Owner/Objector's Attorney or Representative: _____
Board Members with certified training (must have at least one): _____

B. TESTIMONY

The following individuals were sworn as witnesses by the Board of Review Clerk (include Property Owner/Objector or his/her Representative, if testifying, and Assessor):

1. Sworn testimony by Property Owner/Objector _____ included:

a. A recent sale of the subject property: Yes ___ No ___

If yes: The subject property was sold for \$ _____

Date of sale _____

b. Recent sales of comparable properties: Yes ___ No ___

If yes: A total number of _____ other properties were presented.

Addresses of other properties:

c. Other factors or reasons (if presented): Yes ___ No ___

If yes: List of summary factors or reasons presented by Property owner/objector (if evidence presented only available to one side, list corroboration of that evidence):

2. Sworn testimony on behalf of Property owner/objector was presented by following other witnesses (if any): _____

(continued)

Summary of testimony of other witnesses for objector (if any): _____

3. Sworn testimony by Assessor _____ included:

a. Estimated level of assessment for the current year is _____ %.

b. A recent sale of the subject property: Yes ___ No ___

If yes: The subject property was sold for \$ _____

Date of sale _____

c. Recent sales of comparable properties: Yes ___ No ___

If yes: A total number of _____ other properties were presented.

Addresses of other properties:

d. Other factors or reasons (if presented): Yes ___ No ___

If yes: List of summary factors or reasons presented by Assessor:

4. Sworn testimony (if any) on behalf of the Assessor was presented by:

5. Summary of testimony of other witnesses for Assessor (if any): _____

C. DETERMINATIONS

1. The Assessors estimate level of assessment of the municipality has been determined to be _____ %

* The 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, city or village. For example, if the assessed value of all property subject to property tax in the municipality is \$2,700,000 and the equalized value (with no prior corrections) in the municipality is \$3,000,000 then the “assessment level” is said to be 90% (\$2,700,000/\$3,000,000 = .90 or 90%)

(continued)

2. The board finds that there was a recent sale of the subject property.

- a. The sale was an arms-length transaction.
b. The sale was representative of the value as of January.
c. The board finds that the sale supports the assessment.
d. If all answers are 'yes.'

Yes ___ No ___
Yes ___ No ___
Yes ___ No ___
Yes ___ No ___

d1. What is the sale price? _____

d2. What if any adjustments, based on the evidence presented, should be made for such considerations as time between the date of sale and the January 1 assessment date, non-market class value in the selling price (ag-use value and fractionally assessed classes), and/or other physical changes that occurred to the property between the sale date and the January 1 assessment date?

d3. What is the full taxable value? _____

If responses in 2 through 2c were "yes," upon completion of the section proceed to section D, Decision, check all that apply and determine the assessed value.

3. The Board of Review finds that there are recent sales of comparable properties:

Yes ___ No ___

If yes, answer the following:

Property Owner

- a. Did the Property Owner present testimony of recent sales of comparable properties in the market area?
b. If yes, were the attributes satisfactorily adjusted for their differences from the subject and their contribution to value?

Yes ___ No ___
Yes ___ No ___

Assessor

- c. Did the Assessor present testimony of recent sales of comparable properties in the market area?
d. If yes, were the attributes satisfactorily adjusted for their differences from the subject and their contribution to value?

Yes ___ No ___
Yes ___ No ___

Conclusion

e. LIST THE PROPERTIES AND VALUES THAT THE BOARD OF REVIEW RELIES ON TO MAKE ITS DETERMINATION AS TO FAIR MARKET VALUE:

(continued)

4. The Board of Review finds that *the assessment should be based on other factors*: Yes ___ No ___

If Yes, list the factors that the Board of Review relies on to make its determination as to fair market value: _____

What was the most credible evidence presented:

D. DECISION (Motion must be made and seconded)

1. _____ **Moves: Exercising its judgment and discretion, pursuant to Wis. Stat. § 70.47(9)(a), the Board of Review by majority and roll call vote hereby determines _____: _____ Seconds, (mark all that apply below)**

- That the Assessor’s valuation is correct;
- That the Assessor presented evidence of the fair market value of the subject property using assessment methods which conform to the statutory requirements and which are outlined in the Wisconsin Property Assessment Manual;
- That the Assessor presented evidence of the proper classification of the subject property using assessment methods which conform to the statutory requirements and which are outlined in the Wisconsin Property Assessment Manual;
- That the proper use values were applied to the agricultural land;
- That the proper fractional assessments were applied to undeveloped land and agricultural forest land classifications;
- That the property owner did not present sufficient evidence to rebut the presumption of correctness granted by law to the Assessor;
- That the Assessor’s valuation is reasonable in light of all the relevant evidence;
- And sustains the same valuation as set by the Assessor.
- It is not relevant to present assessments of other properties as a basis for the market value of the appeal property (in certain cases).

OR

2. _____ **Moves: Exercising its judgment and discretion, pursuant to Wis. Stat. § 70.47(9)(a), the Board of Review by majority and roll call vote hereby determines _____: _____ Seconds, (mark all that apply below)**

- That the Assessor’s valuation is incorrect;
- That the property owner has presented sufficient evidence to rebut the presumption of correctness granted by law to the Assessor;
- That the property owner’s valuation is reasonable in light of the relevant evidence;
- That the full value of the property is:
 Land: _____
 Improvements: _____
 Total: _____
- That the level of assessment of the municipality is at: _____ %
- And hereby sets the new assessment at:
 Land: _____
 Improvements: _____
 Total: _____

I, _____, Clerk of the Board of Review, do hereby certify that the members of the Board of Review voted as follows:

<u>Name of Board of Review Member:</u>	<u>Yes</u>	<u>No</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

**to adopt these Findings of Fact, Determination and Decision on this _____
 day of _____, 202_____.**

_____ Clerk of Board of Review

This sample script was originally prepared by John P. Macy of Municipal Law and Litigation Group, S.C., (262)548-1340, and was reviewed and modified by Rick Stadelman of the Wisconsin Towns Association and the Office of Technical & Assessment Services of the Wisconsin Department of Revenue.

**Board of Review Hearing
Clerk's Duties & Script**

1. Have a digital or tape recorder (in good working order) ready to start at the beginning of the hearing.
2. Introduce the case when called upon by the BOR chairperson:

This case is of _____ (give name of the Property Owner/Objector).

The property owner/objector resides at _____ (give address of Property Owner/Objector).

The address for the property in question is _____ (give address).

The tax key # for this property is _____ (give tax key number).

This property has been classified for assessment purposes as _____ (give classification – residential; commercial; manufacturing; agricultural; undeveloped; agricultural forest; productive forest land; or other. See Wis. Stat. § 70.32 for classes of property).

The value in the assessment roll for the current year is:

Land \$ _____ (state value from assessment roll);

Improvements \$ _____ (state value from assessment roll);

Total Assessment \$ _____ (state value from assessment roll).

3. When the BOR chairperson asks the Clerk to swear in the witnesses, proceed by stating:

Would all persons intending to provide testimony for this hearing, including the Assessor, please raise your right hand to be sworn? (Oath or Attestation - below)

Oath - DO YOU SOLEMNLY SWEAR OR AFFIRM THAT THE TESTIMONY WHICH YOU SHALL GIVE IN THE MATTER NOW ON HEARING SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH, SO HELP YOU GOD?

OR

Attestation - DO YOU SOLEMNLY ATTEST THAT THE TESTIMONY WHICH YOU SHALL GIVE IN THE MATTER NOW ON HEARING SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH?

Would each person who has just been sworn please state your name and address for the record? (Start with the Property Owner/Objector, any of their witnesses, followed by the Assessor, and any of the Assessor's witnesses. Make sure all speak loudly enough to be recorded.)

Assessor, please state the estimated level of assessment for the current year.

4. Complete Parts A and B of the Findings of Fact, Determinations and Decision Form (blank form – pages 19-24; completed form – pages 25-30) during the hearing.
5. If you are a Clerk who is a BOR member, you may participate in questioning witnesses in the same manner as any other BOR member.

Board of Review Hearing Clerk's Duties & Script *(continued)*

6. Complete Parts C and D of the Findings of Fact, Determinations and Decision Form after the BOR makes its determinations and decisions. Note for the minutes who made and seconded all motions made by the BOR. Record the roll call vote on the form.
7. After the hearing is closed but prior to final BOR adjournment, prepare and either make personal delivery or mail by certified mail, return receipt requested, the Notice of Decision Form (DOR Form PR-302 "Notice of BOR Determination Form").
8. After all determinations of the BOR have been made, prepare a Summary of Board of Review Proceedings, Form PA-800 (see pages 45 - 46), sign the Clerk's affidavit on the bottom of the form, and file with the other BOR documents for the year. Also, if needed, complete DOR Summary - Waiver of Board of Review Request (Form PA-811), as well (see pages 47 - 48).
9. You should also keep in a minute book a record of all BOR proceedings. See Wis. Stat. § 70.47(5). These records must be kept by the town, village, or city clerk for at least seven years. See Wis. Stat. § 70.47(8)(f).

This sample script was originally prepared by John P. Macy of Municipal Law and Litigation Group, S.C., (262)548-1340, and was reviewed and modified by Rick Stadelman (now retired, formerly of the Wisconsin Towns Association), as well as the Office of Technical and Assessment Services of the Wisconsin Department of Revenue.

Board of Review Hearing Chair's Duties & Script

1. Check that the Clerk has a digital or tape recorder (in good working order) ready to start at the beginning of the hearing, or that a court stenographer is ready to record.
2. Ask the Clerk to introduce the case for hearing.
3. Ask the Clerk to swear in all witnesses, including the Property Owner/Objector and Assessor. Have the Clerk administer the oath (or attestation). The Clerk should note for the record all persons who have been sworn (each individual should state their name and address on the record).
4. Briefly outline the hearing procedures:
 - The person filing the objection will testify and present evidence first. The Assessor may then ask the Property Owner/Objector questions, after which the BOR members may ask any additional questions they have for the Property Owner/Objector.
 - After the Property Owner/Objector testifies, any other witnesses present in support of the Property Owner/Objector will testify. Each witness will be subject to questions from the Assessor and the BOR members.
 - After all witnesses for the Property Owner/Objector have testified, the Assessor will present his/her case in support of the assessment. The Property Owner/Objector may then ask the Assessor questions, followed by the BOR members.
 - After the Assessor testifies, any other witnesses present in support of the Assessor will testify. Each witness will be subject to questions from the Property Owner/Objector and the BOR members.
 - The Property Owner/Objector may respond to the Assessor's testimony by presenting any other evidence, followed by additional questioning from the Assessor and the BOR members.
 - The Assessor may then present any other evidence in support of the assessment, again subject to questioning from the Property Owner/Objector and the BOR members.
 - After all evidence has been submitted under oath, the Property Owner/Objector may make a brief summary of his/her case to the BOR.
 - The Assessor may follow with a brief summary of his/her case.
 - After each summary has been presented, the taking of testimony will be closed. The BOR will deliberate on the testimony in open session, either immediately following

1 Note that the 2023 Guide for Board of Review Members, published and updated annually by the Wisconsin Department of Revenue, includes a list of Chairperson responsibilities. Among these, the Chair conducts the meetings in an orderly and legal manner, monitors the BOR's activities, and ensures that the BOR stays within its legal role as a quasi-judicial body.

**Board of Review Hearing
Chair's Duties & Script
(continued)**

5. Make the following statement to the Property Owner/Objector before taking their testimony:

The Board of Review wants you to understand that, under state law, the Board of Review is required to uphold the Assessor's valuation of your property as being correct, unless you by testimony can show the Assessor's valuation to be incorrect. In other words, the burden of proof is upon you as the taxpayer. Do you understand?

6. Begin the hearing by asking the Property Owner/Objector the following:

**For the record, please state your full name and address.
Please state what amount, in your opinion, is the fair market value of your property.**

7. Conduct the hearing following the format described in #4, above.

8. After all evidence has been presented and both the Property Owner/Objector and Assessor have made their final case summaries, state the following on the record:

I am now closing the testimony in this case. I will now open up deliberations in this case by asking the Board of Review members to state, based upon the sworn testimony presented, whether the Assessor's valuation of the property is correct or incorrect.

9. Follow the Findings of Fact, Determinations and Decision Form (blank form – pages 21-26; completed form – pages 27-32) to guide the BOR's deliberations, noting the sworn testimony entered into the record. Make sure the BOR's Determination follows the priorities listed in the "Rules of Best Evidence" graphic (page 19).

This sample script was originally prepared by John P. Macy of Municipal Law and Litigation Group, S.C., (262)548-1340, and was reviewed and modified by Rick Stadelman (now retired, formerly of the Wisconsin Towns Association), as well as the Office of Technical and Assessment Services of the Wisconsin Department of Revenue.

Board of Review Assessor's Duties & Hearing Script

1. Assessor's role for the BOR:
 - May not be a BOR member.
 - Must attend all BOR hearings.
 - Must inform the BOR on the record at the first BOR meeting of the current level of assessment.
 - May not run the BOR meeting.
 - May not participate in BOR deliberations.
 - May not vote.
 - Presumed to be an expert, but proof of expertise should be substantiated on the record.
 - May not impeach his/her own affidavit and valuation.
 - Must submit evidence in support of his/her valuation as indicated on the assessment roll.
 - Must submit to cross examination by the Property Owner/Objector and the BOR members.
 - Must provide full disclosure to BOR and make all books and records available to the Property Owner/Objector and the BOR at the hearing.

2. The Assessor may ask questions of the Property Owner/Objector and his/her witnesses after their testimony has been provided. The Assessor should also be prepared to answer all questions asked by the Property Owner/Objector and the BOR members about the Assessor's testimony.

3. Prior to the start of any hearing, the Assessor should raise any procedural concerns and, if appropriate, make a request to dismiss the objection (e.g., denied income information).

4. Sample Hearing Script for the Assessor to present his/her case to the BOR:
 - a. Qualify yourself as an expert witness.
 - Introduce yourself (state your name on the record).
 - Submit a written curriculum vitae or resume for the record.
 - State your employment qualifications.
 - State your educational training and background.
 - State your experience in assessing and appraisal.
 - State the current level of assessment.

 - b. Describe the subject property.
 - Present photographs of the subject property for the record.
 - Describe your familiarity with the subject property.
 - Describe the inspection history (if any) of the subject property. Use Form PR-300 to provide documentation of the required notice and the history of response.

 - c. Establish market valuation.

Board of Review
Assessor's Duties & Hearing Script
(continued)

- State the definition of market value.
 - State that the valuation in this case was done in accordance with both Wis. Stat. § 70.32 and the Wisconsin Property Assessment Manual.
- d. Present evidence of recent arm's-length sale of the subject property (if any).
- State the date and price of the sale.
 - Name the parties to the sale. Present evidence that the sale was arm's-length.
 - Present any other relevant information about the sale.
- di. *(If no recent arm's-length sale of the subject property...)* Present evidence of recent sales of reasonably comparable properties (if any).
- Name and identify the address(es) of the comparable properties.
 - State the date and price of each comparable sale.
 - Name the parties to each sale. Present evidence that each sale was arm's-length.
 - Describe the details of each comparable property to establish that it is comparable to the subject property.
- dii. Present evidence of any other factors you considered in your valuation, such as:
- The effect of zoning, conservation easements, or conservation restrictions under an agreement with the federal government or under Ch. 91 Farmland Preservation (see Wis. Stat. § 70.32(1g)).
 - An impairment to the property's value due to the presence of a solid or hazardous waste facility or other environmental pollution (see Wis. Stat. § 70.32(2)).
 - If the property has a contaminated well or water system, the time and expense necessary to repair or replace the well or private water system.
 - Alternatives to market value (if no recent arm's-length sales of the subject property or reasonably comparable properties):
 - A verifiable replacement cost estimate, less any depreciation.
 - An income approach for an income-producing property, including the development of income, expenses, and the capitalization rate.
 - A verifiable asking price or listing contract, if the property is currently for sale.
 - A recent market value estimate of the subject property.
 - Other factors/conditions that may affect market value, such as:
 - Size and location of the land.
 - Size, age, and original cost of buildings.
 - Amount of fire insurance.
- diii. Conclude by restating the subject property's value and the primary basis on which that value was established. Remember to thank the BOR members for their time.

This sample script was originally prepared by John P. Macy of Municipal Law and Litigation Group, S.C., (262)548-1340, and was reviewed and modified by Rick Stadelman (now retired, formerly of the Wisconsin Towns Association), as well as the Office of Technical and Assessment Services of the Wisconsin Department of Revenue.

BOR Member Suggested Property Owner Inquiry

To assist BOR members with understanding the Taxpayer Property Valuation Testimony, we suggest that BOR members consider the following questions:

1. What impact does the evidence offered have to the subject property's overall valuation? Is it just an opinion or are there real facts to consider?
 - For example, is the evidence in writing?
2. If the evidence has been viewed by the property owner only, is the evidence offered documented?
 - For example, are there verifiable photos or recordings available to support the testimony presented?
3. Is there a recent sale of the subject property? Who purchased the property from whom?
 - For example, was the sale an "arm's-length" transaction between two disinterested parties?
4. Does the sale show an actual market value? If not, are there sales of comparable properties to justify the change to the assessor's valuation? If yes, how comparable are the properties?
 - For example, is the comparable property similar in size, location, and condition to the subject property?
5. What adjustments were made to the comparable property valuations?
 - For example, is there a significant difference in the size, location, or type of structure?
6. Is there an independent appraisal available? If so, what was the result?
 - For example, how does the independent appraisal show a difference in valuation?

The suggested inquiry questions were prepared by Michelle Drea, Esq., City Assessor, City of Madison, WI Assessors Office, and reviewed by Philip Freeburg of UW-Madison Extension, Local Government Education.

2023 BOR Materials

Taxpayer Assessment Questions and Appeal Information

The following Taxpayer Questions and Assessment Appeal information, together with the DOR Appeal Chart graphic is to assist the clerk, if desired, to provide a taxpayer with assessment and assessment appeal information. This information will help the taxpayer to understand the assessment process starting with the Open Book meeting. This information also shows how an appeal works, requirements to meet the burden of proof, and the types of proof needed.

The Local Government Education Program would appreciate hearing from municipalities regarding the usefulness of or suggested changes to these materials, please contact woemichen@wisc.edu.

2023 BOR

Taxpayer Property Tax Questions & Appealing Your Property Tax Assessment

You have received your Real or Personal Property Tax bill and you may have questions or believe the value assessed is incorrect. This information is to assist you, the taxpayer, to understand the Board of Review (BOR) process and the evidence needed to support your case.

Assessor's Open Book: If you question your assessment, we suggest that you first go to the Open Book meeting to meet with the Assessor to discuss your assessment value and your views. This will afford you the opportunity to discuss your property assessment to learn how your 2023 assessment was developed and determined. This information will help you to determine if you Board of Review wish to appeal the assessment valuation.

Intent to File an Objection with the BOR: If that effort does not satisfy you, you may appeal your assessment to your municipality's BOR. You should notify (verbally in person or over the phone, electronically, or in writing) your Clerk of your intent to appeal your property assessment, at least 48 hours prior to the BOR meeting. You may also attend the first BOR meeting and request to appeal during the first 2-hour meeting, if you can show good cause why you did not provide at least 48 hours' advance notice. Finally, if there are extraordinary circumstances (a difficult standard to meet), the BOR can allow an appeal despite a failure to provide the required notice. See the Notice of Intent form (p. 43).

NOTE: If you did not allow the Assessor to enter your property, the BOR may not use that information to prevent you from making an appeal. However, keep in mind that the Assessor has other means to value your property that do not require an interior inspection.

Making Your Case: To convince the BOR you are correct, you will need to bring evidence to the BOR that clearly supports that the Assessor's assessed value of your property is incorrect. The BOR will consider the following rules:

BOR Property Tax Assessment Appeal Rules:

- 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.
- The BOR cannot change an Assessor's fixed value except upon evidence presented by persons, under oath, that substantiates a specific value change.
- The evidence must be factual in nature, not just a matter of opinion.

2023 BOR

Taxpayer Property Tax Questions & Appealing Your Property Tax Assessment

Board of Review (BOR) Appeal Hearing:

- The BOR consists of County, City, Village, or Town officials and/or appointed citizens. The BOR is responsible for correcting any assessment errors. The BOR conducts its hearings in a manner similar to a court.
- We suggest that you attend the first BOR meeting to review your assessment based on your Open Book Assessor discussion or to request to appeal your assessment. Typically, the BOR First Meeting date, time, and location will be on your Assessment Notice. You can also look for a posted notice or ask the municipal Clerk.
- Appeal Hearing dates are dependent on the number of appeals brought to the BOR, and the Clerk will post a hearing date notice.
- All evidence is customarily submitted as sworn, in-person, oral testimony. You or your agent must attend the Appeal Hearing to present your evidence. Unless the BOR has granted advanced permission to submit sworn telephone or sworn written testimony. Be prepared to explain to the BOR why you think the Assessor is incorrect and exactly what you think your property is worth and why.
- You must present evidence to support your estimate of market value. Such evidence is:
 - A recent sale of your property, if any. Bring written proof, such as a closing statement or real estate transfer return, to substantiate the date and amount of the sale.
 - Recent sales of similar properties in your neighborhood, if any. Bring written proof substantiating the amount and date of sale.
 - Other specific reasons showing the assessment is in error. Bring written and/or photographic evidence when possible, such as cost estimates for repairs, etc.
- If you use recent sales of similar properties to make your case, show how each example compares to your property, such as style, building square footage, lot size, number of rooms, condition, exterior wall constructions, etc. If you bring a written appraisal by a qualified expert, that person **MUST** attend the hearing to provide sworn, in-person, oral testimony, (unless the BOR has granted advanced permission to submit sworn telephone or sworn written testimony).
- An appraiser from the Assessor's office will present evidence related to the market analysis performed on your property. You should contact the appraiser prior to the hearing to exchange information.
- The BOR will determine the market value of your property based on the evidence presented. The Clerk will mail a written notice of the BOR's decision to you after the hearing.

Additional Information: The Wisconsin Department of Revenue publishes an additional guide on its website, *2023 Guide for Property Owners*, at <https://www.revenue.wi.gov/DOR%20Publications/pb060.pdf>.

See also the following graphic, taken from the DOR guide, that details the property owner assessment appeal process.

F. Flowchart of the assessment appeal process

If you are not satisfied with your assessment, then consider the following assessment appeal process:

