Property Assessment Appeal Guide For Wisconsin Real Property Owners

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Preface

The purpose of this guide is to help property owners understand and, if necessary, appeal their real property assessments.

The State of Wisconsin is responsible for tax law *administration* while the local tax district is responsible for *valuation and tax collection*. Because the local tax district is responsible for the primary assessment, your appeal rights begin at the municipal level. This guide is intended to help you through this process.

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Property Assessment Appeal Guide

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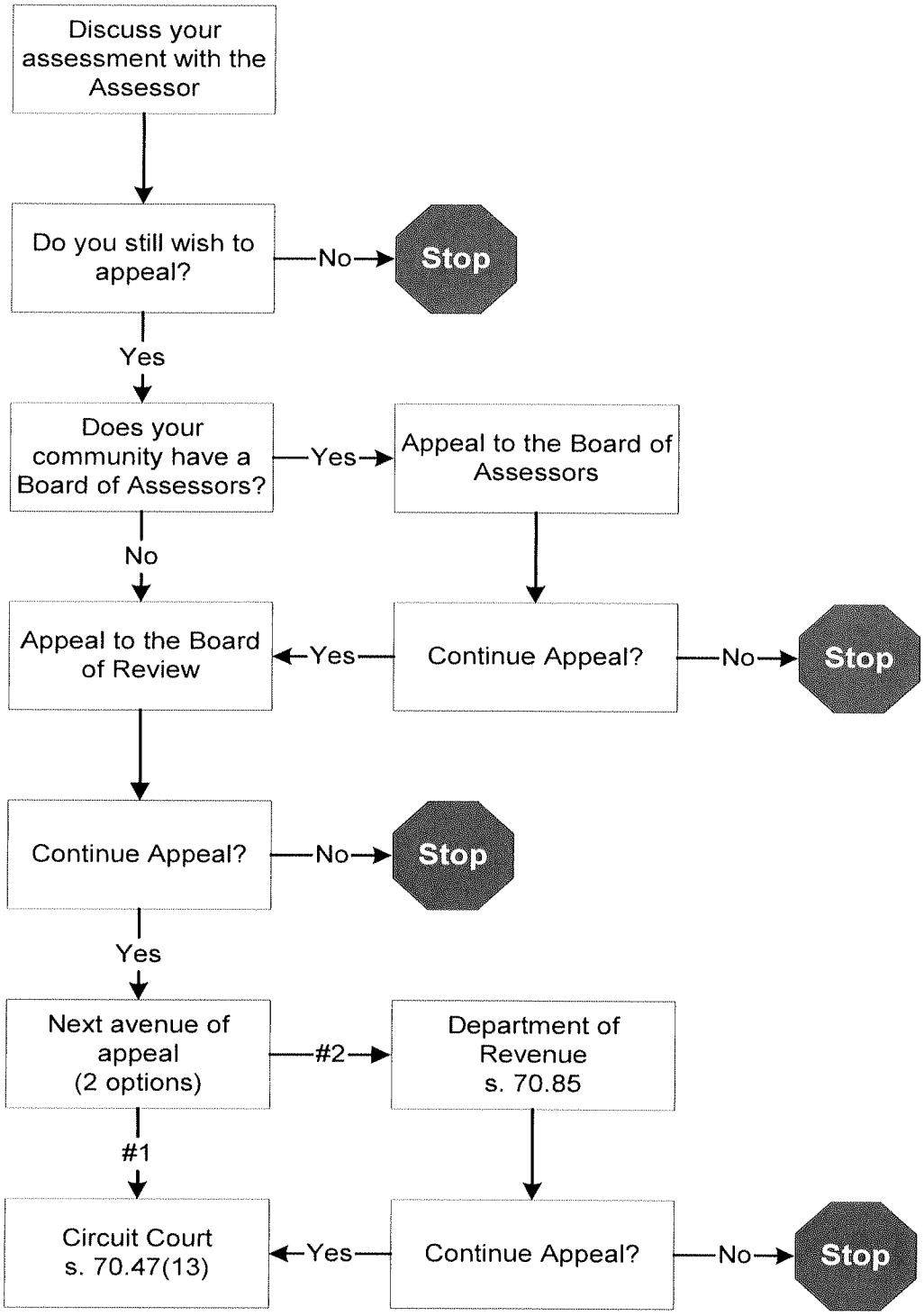
Flowchart of the Assessment Appeal Process

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



Part I: Meet With the Local Assessor

How do I find the assessment value of my property?

Contact your local assessor to determine your assessment. Current year assessments are not usually completed before the second Monday in May. After the assessment roll is completed, the assessor must notify every owner of real property, or any improvements taxed as personal property whose total assessment changed from the previous year. Failure to receive a notice does **not** invalidate the assessment.

According to sec. 70.365 Wis. Stats., the notice must be in writing and mailed at least 15 days prior to the Board of Review (BOR) meeting (or meeting of the Board of Assessors (BOA) if one exists). The notice contains the amount of the changed assessment and the time, date, and place of the local BOR (or BOA) meeting. The notice must include information notifying the owner of the procedures to be used to object to the assessment. The notice requirement, however, does not apply to personal property assessed under Chapter 70.

What should I do if I am uncertain about the accuracy or fairness of my assessment?

If possible, you should meet with the assessor to discuss your assessment. Under sec. 70.45, Wis. Stats. the assessment roll must be open for inspection (open book) for a minimum of two hours prior to the Board of Review (BOR). The first meeting of the BOR is scheduled to occur in the thirty days following the second Monday of May. At least 15 days before the first day of the open book period, the municipal clerk must publish or post a notice specifying what day(s) the roll is open for inspection. The assessor must be present for at least two hours while the assessment roll is open for inspection. Instructional material on appealing your assessment will be available at the open book. Call the clerk to verify the dates for the open book period or the BOR..

Am I required to meet with the assessor?

You are not required to meet with the assessor before appealing to the Board of Review, although it is highly recommended. Minor errors and misunderstandings can often be corrected by meeting with the assessor without initiating a formal appeal.

What happens if I refuse to allow the assessor inside to view my property?

If a property owner denies entry to view the property, the assessor will send a certified letter requesting admittance to the property to view it. If the property owner still refuses admittance, the assessor will value the property using the best evidence available. This is commonly referred to as a doomage assessment. Furthermore, the property owner will not be able to appear before the Board of Review. Most actions of appeal require that the assessor be allowed entry to view the property.

What should I expect if I meet with the assessor to informally discuss my assessment?

You should ask questions that will help you understand the assessment process and how your assessment was determined. An informal discussion with the assessor can often resolve a problem prior to a formal hearing before the Board of Review. Ask the assessor to show you the records for your property and to explain how your assessment was determined. Ask any questions that will help you understand the assessment process. Municipalities must provide instructional pamphlets at open book which explain the assessment, taxation and appeal processes. You should ask about the data on your property. Make sure the size, age, condition, number of bathrooms, and other physical characteristics of your property are correct. Also, if you know of recent sales of property in your area, bring them to the attention of the assessor.

Part II: Board of Assessors

What is the Board of Assessors (BOA)? Does my municipality have one?

Only first class cities (Milwaukee) are required to have a Board of Assessors. Second class cities *may* decide to provide for a BOA. In fact, most Wisconsin cities do *not* have a BOA. You should call the city assessor or clerk if you are not certain whether your municipality has a BOA.

The BOA consists of members of the assessor's staff. The purpose of the BOA is to investigate and act on assessment complaints. The BOA is an intermediate step in the appeal process created to ease the burden on the Board of Review (BOR). Depending on the nature of the complaint, the BOA may review the assessor's records, talk to you directly, and inspect your property. You will be required to complete an Objection Form for Real Property Assessment to initiate a BOA review. You should answer all the questions on the form and provide all the information relating to the value of the property. This includes the purchase price of your property, your opinion of market value, and the basis for your opinion.

The BOA will notify you of its decision. The time period required for you to receive notification will vary depending on the workload. Once you receive notification, you have ten days to arrange to appear at the BOR (as described in PART III). As previously stated, you will need to complete a Board of Review Objection Form prior to appearing before the BOR.

If your municipality does not have a BOA and you feel your assessment is incorrect, your formal appeal begins with the local BOR as described in PART III of this guide.

Part III: Board of Review

How do I get the Board of Review (BOR) to review my assessment?

The first thing you must do is provide written or oral notice of your intent to file an objection to the Board of Review's clerk. The notice of intent to file an objection must be

made at least 48 hours before the BOR's first scheduled meeting. You can obtain an objection form from your municipal clerk. Your objection form must be filed with the clerk of the BOR during the first 2 hours of the BOR's first scheduled meeting. Make sure you file a completed form or the BOR may refuse to act on your appeal. An objection form is illustrated later in this guide.

Each assessment year stands alone. You may only appeal the current year's assessment. However, you may appeal your assessment every year if you feel the value is incorrect.

Can I appeal my assessment if I am unable to timely file a notice of intent or an objection form?

Under certain circumstances, the Board of Review (BOR) may waive the 48-hour filing deadline for the notice of intent. Upon showing of good cause and the submission of a written objection within the first 2 hours of the BOR's first scheduled meeting, the BOR may waive the 48-hour notice requirement. The BOR may also waive the requirement up to the end of the fifth day of the BOR session if you submit proof of extraordinary circumstances for failing to meet the 48-hour notice and failing to appear during the first 2 hours of the first scheduled meeting. However, as a matter of record, it is recommended that your notice of intent to file an objection be filed with the clerk in writing at least 48 hours before the BOR's first meeting.

When does the Board of Review meet?

The Board of Review (BOR) is required by law to meet during the 30-day period beginning with the 2nd Monday in May. If the assessment roll is not completed, the BOR will adjourn to some future date. At least 15 days before the first meeting of the BOR, the BOR's clerk must publish a class 1 notice; post a notice in at least 3 public places and place a notice on the door of the town, village or city hall announcing the time and place of the first meeting. These notices must also contain the requirements for objecting to an assessment (under sec. 70.47 (7) (aa) and (ac) to (af), Wis. Stats.).

If you received a Notice of Changed Assessment, the time, date and place of the BOR meeting will be printed on it. However, to be certain, contact your municipal clerk to find out when the BOR will be held or the date to which it is adjourned.

Am I required to appear at the Board of Review?

If you want to appeal your assessment, it is *extremely important* that you appear at the Board of Review (BOR). **Most subsequent avenues of appeal require that you first appear at the Board of Review**. Alternatively, you may designate a personal representative to appear before the Board on your behalf.

Upon receiving your written objection before or during the first 2 hours of its first meeting, the BOR will schedule a time for hearing the objection. Notice must be given to the property owner and the assessor at least 48-hours before an objection hearing unless both parties mutually agree to waive the 48-hour notice requirement.

If you cannot attend the BOR's hearing, you can arrange for a friend, relative, attorney, or other representative to appear on your behalf. If you are sick or disabled, the BOR will hear your testimony by telephone if you present a letter from a physician, surgeon or osteopath confirming the condition.

Who makes up the Board of Review and how does it function?

The Board of Review (BOR) consists of municipal officials, residents or a combination of the two. A BOR cannot be constituted unless it includes at least one voting member who has attended a department of revenue approved training session for BOR members within the 2 years prior to the BOR's first meeting. The BOR operates like a court. It hears evidence from you and the assessor before making a decision. The BOR can act only upon sworn oral evidence presented at the hearing. It cannot act upon hearsay.

Can I exclude a Board of Review member from hearing my objection?

Yes. Except in 1st and 2nd class cities, a person objecting to their assessment may request the removal of any one Board of Review (BOR) member for any reason. Objectors may request the removal of any BOR member whom they believe harbors a personal bias or prejudice against them. A request to remove a BOR member must be made at the time the objector provides his or her written or oral notice of intent to file an objection. This notice must be made at least 48 hours before the first scheduled meeting of the BOR or at least 48 hours before the objection is heard if the BOR waived the 48-hour notice requirement. Furthermore, the notice must identify the member(s) to be removed, state the nature of the bias or prejudice and estimate the length of time the objection hearing will take. Failure to meet the notice requirements and inform the BOR clerk whether you intend to ask for a removal may disqualify you from having your objection heard.

BOR members may be removed for other reasons. A municipality must remove any member of a BOR who has a conflict of interest under an ordinance of the municipality in regard to the objection. In addition, any member of the BOR who would violate the code of ethics for local government officials (sec. 19.59, Wis. Stats.) by hearing an objection shall recuse himself or herself from the hearing.

What if I believe that my taxes are too high?

Don't go to the Board of Review (BOR) for the wrong reason. The formal appeal process for assessments is closed by the time you receive your tax bill. If your concern is your taxes, you should contact those responsible for spending decisions: your municipal officials, county board members, and school board members. These are the individuals who determine and approve the spending that results in your property taxes, **not the assessor**. (The assessor is only responsible for the equitable distribution of the tax.)

The BOR can only hear evidence relating to the assessment, or value of your property. The BOR will *not* hear evidence or act if your concern is that your taxes are too high.

What must I do to get the Board of Review to change my assessment?

Under sec. 70.47(8)(i), Wis. Stats., the assessor is presumed to be correct. This means that unless you present convincing evidence that proves the assessor's value is wrong, your assessment will not be changed. You cannot merely appear before the Board of Review and say your assessment is too high. You must present evidence to support your opinion of the value you listed on your Objection Form for Real Property Assessment.

What is the most compelling evidence I can present to the Board of Review?

Under state law the best indicator of market value is a recent arm's-length sale of a property, provided it is in line with recent arm's-length sales of reasonably comparable property. Sales should be recent; those several years old may not reflect current market conditions. Sales must be arm's-length. There should be no relationship between the buyer and seller that affects the sales price. For example, sales between relatives are typically not arm's-length sales. In addition, the following conditions are necessary for a sale to be considered a market value sale:

1. The property must have been available on the open market for a period of time typical of the turnover time for that type of property.
2. Both buyer and seller must be knowledgeable about the real estate market.
3. Both buyer and seller must be knowledgeable about the uses, present and potential, of the property.
4. There must be both a willing buyer and a willing seller, with neither compelled to act.
5. Payment for the property must be in cash, or typical of normal financing and payment arrangements for the type of property.
6. The sales price must include all of the rights, privileges, and benefits of the real estate.

What if my property was not recently purchased?

If you did not recently purchase the property, the next best evidence is recent arm's-length sales of reasonably comparable property. Comparable properties are those similar to your property in location, style, age, size, and other features. (For example, assume you own a ranch home built in 1962 that has 1,200 square feet, three bedrooms, one and one half baths, a two car garage, and is on a level 7,200 square foot lot.) You should try to find recent arm's-length sales of property in your area with the same or similar features. The more features of the sale properties that are the same as your property, the stronger the indication that these sales prices represent the market value of your home. The assessor should be able to tell you what comparable sales were used to determine the market value of your property.

What if there are no comparable sales?

When there are no recent arm's-length comparable sales, the value may be estimated using other available information. This may include sales of less comparable properties, asking prices, cost and income approaches to value, options to purchase, recent appraisals of your property, and insurance estimates.

What happens when I present my evidence to the Board of Review?

Section 70.47(7)(ae), Wis. Stats., requires anyone planning to protest an assessment must provide the Board of Review (BOR), in writing, their estimate of the value of the land and of all improvements that are the subject of the person's objection and specify the information that the person used to arrive at that estimate. The proceedings will be recorded by a stenographer or a recording device. Evidence is presented through sworn, oral testimony. This means that if you have an appraisal of your property, the appraiser should appear before the BOR to present the appraisal and answer questions. It is important for the pertinent appraisal facts to be part of the oral record. Be sure to read written evidence into the record, or attach it to the Objection Form for Real Property Assessment.

At the Board of Review hearing you should present all of the information that you believe affects the value of your property.

If you disagree with the Board of Review's (BOR) decision and appeal the decision to Circuit Court, you will ***not*** be allowed to introduce new evidence to the court. The court will make its decision based on the evidence presented and the record made at the BOR.

The BOR will allow sufficient time for both the property owner and the assessor to present information. During and after your presentation, BOR members may ask you questions to make sure that your evidence and the record are understandable.

Can I have witnesses or experts present evidence to the Board of Review?

Yes. The property owner may have witnesses or experts appear on their behalf. Witnesses and experts may provide sworn oral testimony. Witnesses and experts should be prepared to provide documentation to their testimony.

Can I appeal my neighbor's assessment?

No. Wisconsin law makes no provision for you to appeal another individual's property assessment. However, if the Board of Review (BOR) has reason to question the accuracy of a property assessment, which is not appealed, the BOR has the authority to schedule a hearing to review the assessment. The BOR must notify the owner or agent of its intent to review the assessment and the date, the time, and the place of the hearing. The hearing must be conducted according to the procedure established in sec. 70.47(8), Wis. Stats. The BOR may then adjust the assessment based upon the evidence before them.

What happens after I present my evidence?

After you have presented your evidence and answered any questions, it is the assessor's turn to present evidence. The assessor presents evidence to support the assessment and answers questions from Board of Review members. You will also have an opportunity to ask the assessor questions.

When does the Board of Review make a decision?

After the Board of Review (BOR) has heard all of the evidence, it will discuss the issue and reach a decision. **This deliberation is open to the public.** The deliberation may occur after each objection is heard, after all objections are heard, or periodically during the time the BOR is open. Decisions are made with a roll call vote by a simple majority of the BOA. Prior to adjourning, the clerk must provide you with written notice of the decision. This may be given to you, if you are present, or mailed to you, return receipt required. This notice will include your rights to appeal the BOR's decision. Contact the clerk of the BOR if you do not receive a notice subsequent to the final adjournment of the BOR. A Notice of Board of Review Determination is illustrated later in this guide.

If the Board of Review decides to uphold my assessment, what else can I do?

If you are dissatisfied with the Board of Review's (BOR) determination on your objection you have several further options to appeal your assessment. The three methods for challenging a municipal assessment are:

1. Appeal an individual assessment directly to Circuit Court under sec. 70.47 (13), Wis. Stats. (see Part IV).
2. Appeal to the Department of Revenue. Individual assessments are appealed under sec. 70.85, Wis. Stats. Group appeals are made under sec. 70.75, Wis. Stats. (see Part V).
3. File a claim of excessive assessment with the municipality under sec. 74.37, Wis. Stats. (see Part VI).

How do I appeal the assessment on my farm?

If you feel your assessment is too high, sec. 70.47, Wis. Stats. grants you the right to appeal the assessment of your property. The process for appealing the assessed value of your property containing agricultural land is essentially the same as that for any other type of property. First, you should contact your assessor prior to Board of Review (BOR) and arrange to see the assessment records (often referred to as the open book) and discuss your assessment.

At the open book, the assessor, who is the local municipal valuation expert, should show you the calculations used to determine the use value of agricultural land. If you are still not satisfied with your assessed value, you should make arrangements with your local clerk to appear before the BOR.

If I think my land should be classified as agricultural, undeveloped, or agricultural forest, can I appeal the classification?

Yes. Property owners may appeal the classification of their property when it affects the assessed value. Classification affects the assessment 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.

Undeveloped land and agricultural forest land are assessed at 50% of full value.

After determining the full value of qualifying undeveloped land and agricultural forest land in accordance with sec. 70.32(1), Wis. Stats., state case law, and professionally accepted appraisal practices, the value is reduced by 50% under sec. 70.32(4), Wis. Stats.

What is agricultural land?

Section 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 shall typically bear physical evidence of agricultural use, such as furrows, crops, fencing or livestock, appropriate to the production season.

An appeal regarding agricultural classification usually relates to property in agricultural production during the prior year that has been mistakenly classified in a non-agricultural (market value) class.

What is undeveloped land?

Undeveloped land is defined by statute to include bog, marsh, lowland brush, uncultivated land zoned as shoreland under sec. 59.692, Wis. Stats. and shown as a wetland on a final map under 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 way, ponds, depleted gravel pits, and land that, because of soil or site conditions, is not producing or capable of producing commercial forest products.

What is agricultural forest land?

Effective for the 2005 assessment year, 2003 Wisconsin Act 230 amended the definition of agricultural forest.

Section 70.32(2)(c)1d, Wis. Stats. now defines agricultural forest as land that is producing or is capable of producing commercial forest products, if the land satisfies any of the following conditions:

a. The forest land is contiguous to a parcel that has been classified in whole as agricultural land. The forest land and the contiguous agricultural parcel must have the same owner. Contiguous includes separated only by a road.

b. The forest land is located on a parcel that contains agricultural land for the January 1, 2004 assessment, and on January 1 of the current assessment year.
c. The forest land is located on a parcel where at least 50 percent of the acreage was converted to agricultural land for the January 1, 2005, assessment year or thereafter.

Please refer to the *Agricultural Guide* for classification examples at: Government Publications - Wisconsin Department of Revenue

How do I appeal the classification of my agricultural, undeveloped, or agricultural forest land?

First, you should contact your assessor prior to Board of Review (BOR) and arrange to see the assessment records (often referred to as the open book) and discuss the classification. If, after your discussion with the assessor, you are still not satisfied with the classification of your land, you should make arrangements with your local clerk to appear before the BOR.

If you are appealing the classification of your land that was in agricultural use during the prior year, but not classified as agricultural land for assessment purposes, you should be prepared to present evidence to the assessor or BOR verifying its use in agriculture. Evidence of agricultural use may include leases or financial records demonstrating an attempt to produce crops or livestock. At the open book and BOR, the assessor, who is the local municipal valuation expert, should assist the property owner and/or BOR members with the calculations required to determine the use value of any parcel whose classification in a non-agricultural class is challenged.

The Department of Revenue (DOR) annually calculates guideline use values for every municipality in the state. These guideline use values are available from your local assessor or the DOR. Your parcel's agricultural use value will be largely determined by (1) the guideline use values for the current year and (2) the local level of assessment for your municipality.

An appeal of agricultural forest or undeveloped land should demonstrate how the land meets the appropriate definition under sec. 70.32(2)(c), Wis. Stats.

It should be noted that 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.

Part IV: Appeal to Circuit Court

How do I appeal to Circuit Court?

If you are not satisfied with the Board of Review (BOR) decision, one method of appealing that decision is to Circuit Court by an action for certiorari. Certiorari is a *review of the written record* of the Board's hearing. **No new evidence may be introduced**. This is why it is important you present all of your evidence at the BOR. An appeal must be filed with

the Circuit Court within 90 days after you, the property owner, receive the notice of determination from the BOR. Your appeal should state the improper action of the BOR. For example: the BOR failed to consider the recent arm's-length sale of your property. Contact the Circuit Court directly or hire an attorney to help you with your appeal.

What if the Court disagrees with the Board of Review's decision?

If the court finds any errors in the proceedings of the Board of Review (BOR) which affect the assessment, it will send the assessment back to the BOR with instructions for further consideration. The court will retain jurisdiction of the appeal until the BOR determines an assessment in accordance with the court's order. The court may order the municipality to reconvene the BOR if it has adjourned prior to the court's decision.

Part V: Appeal to the Department of Revenue

How do I appeal my individual assessment to the Department of Revenue?

An appeal under sec. 70.85, Wis. Stats. may be filed for the current year only, and only if you have contested the property assessment for that year to the Board of Review (BOR).

When appealing a BOR decision under sec. 70.85, Wis. Stats., a written complaint (letter) must be received by the Department of Revenue (DOR) within 20 days after delivery of the BOR determination or within 30 days after the mailing date on the clerk's affidavit if there is no return receipt. This date is specified in the BOR Clerk's affidavit according to sec. 70.47(12), Wis. Stats. This appeal process requires a non-refundable $100 filing fee. It is not available for properties over $1,000,000 in value or properties located in first class cities (Milwaukee) under sec. 70.47(16), Wis. Stats.

Your complaint letter to the DOR should include the following:

- Indicate it is an appeal to the DOR under sec. 70.85, Wis. Stats.
- State the name of the county and municipality (township, village or city) in which the property is located.
- Include your name, mailing address, and telephone number.
- Include a $100 filing fee. (Checks should be made payable to the Wisconsin Department of Revenue).
- Be directed to the appropriate DOR district office (Addresses are listed on the last page of this guide).

Both real and personal property may be appealed under this section. *However, the Department will not change an assessment determined to be within ten percent of the general assessment level of all other property in the municipality.*

How will the Department of Revenue handle my individual appeal under sec. 70.85, Wis. Stats.?

The Department of Revenue (DOR) will hold an informal conference with the property owner and the assessor where each may present evidence. If the DOR feels adequate evidence has been presented during the conference, it will make a decision. If the DOR does

not feel it has adequate evidence, it will order a DOR appraiser to investigate the appeal. Once the investigation is completed the DOR will make a decision. The DOR must act before November 1 of the year in which the assessment is made or within 60 days of receiving the written complaint, whichever is later. The DOR's decision may be appealed by an action for certiorari in the Circuit Court of the county in which the property is located.

Is there a way for several property owners to file a group appeal?

Under sec. 70.75, Wis. Stats., except in cities of the first class (Milwaukee), the owners of at least 5% of the assessed value of all property in the municipality may submit a written petition with the Department of Revenue for a reassessment of the municipality. The basis of the petition must be that the assessment of property in the municipality is not in compliance with the law and that the public interest will be promoted by a reassessment. A petition for reassessment may be obtained from the Equalization District Supervisor. The District Supervisor can also answer any questions that you may have regarding the circumstances of a potential sec. 70.75, Wis. Stats., petition. Contact information is provided on the last page of this guide.

A reassessment is a complete redoing of the assessment roll. In other words, if the appeal were successful, the assessment roll in question would be completely redone. It is not necessary for property owners to have appeared at the Board of Review to petition for a reassessment.

How does the Department of Revenue handle a group appeal under sec. 70.75, Wis. Stats.?

Once a petition is verified to contain at least 5% of the assessed value of all property in the municipality, the Department of Revenue (DOR) will hold a public hearing. The public hearing provides property owners and municipal officials an opportunity to present evidence for or against a reassessment. The DOR will then conduct an investigation of the assessment and do one of the following: (a) order a reassessment, (b) order special supervision of succeeding assessments, (c) deny the petition, or (d) dismiss the petition. All costs incurred by the DOR are charged back to the municipality. The Equalization District Supervisor can provide you with additional information regarding the components of the investigation and the options available to the DOR.

Part VI: Appeal to the Municipality

What is an unlawful tax?

Section 74.35, Wis. Stats. provides for the recovery of unlawful taxes under very specific conditions. An unlawful tax occurs when one or more of the following errors are made:

- a clerical error was made in the description of the property or in the computation of the tax;
- the assessment included real property improvements which did not exist on the assessment date (January 1);
- the property was exempt from taxation;
- the property was not located in the municipality;

- a double assessment was made; or
- an arithmetic, transpositional or similar error has occurred.

Please note that an "unlawful tax" **does not include judgmental questions about the valuation.** Valuation issues must be addressed through the Board of Review appeal process.

How can I recover an unlawful tax?

You can recover unlawful taxes under sec. 74.35, Wis. Stats. by filing a claim with your municipality.

How do I file a claim with my municipality under sec. 74.35, Wis. Stats.?

A claim for recovery of unlawful taxes must include all of the following:

- be in writing,
- state the alleged circumstances for the claim,
- state the amount of the claim,
- be signed by the claimant or the claimant's agent, and
- be served to the municipal clerk.

A claim for the recovery of unlawful taxes paid to the wrong municipality must be filed within two years after the last date specified for timely payment of the tax. All other claims for recovery of unlawful taxes must be filed by January 31 of the year in which the tax is payable. No claim may be made unless the tax, or any authorized payment of the tax, is timely paid.

What is a claim on excessive assessment?

Section 74.37, Wis. Stats. allows a person to file a claim to recover the amount of general property tax imposed because the assessment of the property was excessive.

How do I file a claim on excessive assessment?

You file a claim on excessive assessment under sec. 74.37, Wis. Stats. with your municipality.

How do I file a claim with my municipality under sec. 74.37, Wis. Stats.?

In order to file a claim on excessive assessment, the taxpayer **must have appealed to the Board of Review** (unless notice under sec. 70.365, Wis. Stats. was not given). The claim must be filed by January 31 of the year in which the tax is payable.

A claim on excessive assessment must include all of the following conditions:

- be in writing,
- state the alleged circumstances for the claim,
- state the amount of the claim,
- be signed by the claimant or the claimant's agent, and

- be served to the municipal clerk

A claim on excessive assessment *cannot* be filed if the Board of Review's determination was appealed to the Department of Revenue or to Circuit Court. No claim may be made unless the tax is timely paid.

What if the municipality denies a claim under sec. 74.35 or sec. 74.37, Wis. Stats.?

If the municipality denies the claim, it must notify you by certified or registered mail within 90 days after the claim is filed. You may appeal the decision to Circuit Court if you feel the decision is incorrect. You must commence action within 90 days after receiving notice that the claim is denied.

If the municipality does not act on the claim within 90 days, you have 90 days to appeal to Circuit Court.

If the municipality allows a claim under sec. 74.35 or sec 74.37, Wis. Stats., when do I receive payment?

The municipality must pay the claim within 90 days after the claim is allowed.

Wisconsin Property Assessment Manual Standards

The *Wisconsin Property Assessment Manual* specifies technical, procedural, and administrative practices. It also defines procedures, policies, legal decisions, and assessor performance expectations.

The authority for preparing the *Wisconsin Property Assessment Manual* comes from sec. 73.03, Wis. Stats. This statute requires that the Department of Revenue prepare a manual that "shall discuss and illustrate accepted assessment methods, techniques and practices with a view to more nearly uniform and more consistent assessments of property at the local level." It goes on to say "The manual shall be amended by the department from time to time to reflect advances in the science of assessment, court decisions concerning assessment practices, costs, and statistical and other information deemed valuable to local assessors by the department."

The 2010 *Wisconsin Property Assessment Manual* prescribed new standards to take effect in 2012 and 2013. The new standards are:

1. Technical Standards from the International Association of Assessing Officers which deal with issues such as mass appraisal, public relations, and sales ratio studies.
2. *Uniform Standards of Professional Appraisal Practice* from the Appraisal Foundation. These standards focus on practices that promote public trust and on communicating in a manner that is meaningful and not misleading.

Trespassing and Revaluation Notice

2009 Wisconsin Act 68

2009 Wisconsin Act 68, signed November 12, 2009 and published November 25, 2009, is an act to amend sec. 70.05(5)(b) Wis. Stats. and to create secs. 70.05 (4m), 895, 488, 943.13 (4m)(d) and 943.15(1m), Wis. Stats.; relating to: 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.

The trespass law entitles the assessor to enter a property once during an assessment cycle unless the property owner authorizes additional visits. If the property owner denies the assessor access to the property, the assessor must maintain a list of denied entries. Sections 943.13 and 943.15 pertain to the entry onto the property. Assessors and their staff should understand the conditions included in these statutes. The major conditions for entry are listed below:

- The reason for the entry must be to make an assessment on behalf of the state or a political subdivision.
- The entry must be on a weekday during daylight hours, or at another time as agreed upon with the property owner.
- The assessor's visit must not be more than one hour.
- The assessor must not open doors, enter through open doors, or look into windows of structures.
- If the property owner or occupant is not present, the assessor must leave a notice on the principal building providing the owner information on how to contact them.
- The assessor may not enter the premises if they have received a notice from the property owner or occupant denying them entry.
- The assessor must leave if the property owner or occupant asks them to leave.

Act 68 also addresses notification which must be published or posted prior to commencement of a revaluation by an assessor. The trespass bill states in part "Before a city, village, or town assessor conducts a revaluation of property under this paragraph [Section 70.05(5)(b) Wis. Stats.], the city, village or town **shall** publish a notice on its municipal Web site that a revaluation will occur and the approximate dates of the property revaluation. The notice **shall** also describe the authority of an assessor, under Section 943.13, Wis. Stats. and Section 943.15, Wis. Stats., to enter land. If a municipality does not have a Web site, it **shall** post the required information in at least 3 public places within the city, village or town." (Emphasis added)

It is recommended that you provide a link to the above noted statutory references to the statutory text, so that persons visiting your website could click on those links and review the statutes. Model language regarding this notice is provided below.

Sample Revaluation Notice

A revaluation of property assessments in the municipality shall occur for the (*year*) assessment year. The approximate dates of the revaluation notices being sent to property owners is expected to be in (*month/year*). Please also notice that the Assessor has certain statutory authority to enter land as described in Sections 943.13 and 943.15, Wisconsin Statutes.

The ability to enter land is subject to several qualifications and limitations, as described within the foregoing statutes. Copies of the applicable statutes can be obtained at public depositories throughout the State of Wisconsin, and from the State of Wisconsin Legislative Reference Bureau website (www.legis.state.wi.us/rsb/stats.html) or a copy may be obtained from the municipal clerk upon payment of applicable copying charges.

Statutory References

The following are the references to the various appeals procedures contained in the Wisconsin Statutes. Current statutes are available from the Revisor of Statutes at the web site http://www.legis.state.wi.us/rsb/Statutes.html The most recently printed paper version should be available from your municipality or local library.

Municipal Assessor

Section 70.365 - requires the assessor to provide the real property owner a Notice of Changed Assessment at least 15 days prior to the Board of Review.

Section 70.45 - details the noticing requirements and time period the assessment roll must be open for public inspection prior to the Board of Review.

Board of Assessors

Sections 70.07 and 70.075 - details the members, organization and procedures of the Board of Assessors.

Board of Review

Sections 70.46 and 70.47 - details the members, organization, and procedures of the Board of Review.

Circuit Court

Section 70.47(13) - (Certiorari) provides for the property owner to appeal the Board of Review's decision to Circuit Court.

Section 70.85(4)(c) - provides for the property owner to appeal the DOR's 70.85 decision to Circuit Court.

Department of Revenue

Section 70.75 - provides for property owners to appeal the assessment of the entire municipality to the Department of Revenue.

Section 70.85 - provides for the property owner to appeal an individual assessment to the Department of Revenue.

Municipality

Section 74.35 - provides for the property owner to appeal an unlawful tax to the municipality.

Section 74.37 - provides for the property owner to appeal an excessive assessment to the municipality.

Glossary

Arm's-Length Sale—A sale between two parties, neither of whom is related to, or under abnormal pressure from the other.

Assessed Value—The dollar amount assigned to taxable real and personal property 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).

Assessor—An assessor is the official responsible for appraising all property within an assessment district and signing an affidavit to its correctness. The assessor values all taxable property to determine the share of the levy that each parcel will bear. The assessor also determines which property is exempt from the property tax. To engage in property assessment work, the assessor *must* obtain certification from the Wisconsin Department of Revenue. The Department keeps certification records on file and is authorized to inform an inquirer if an individual holds a valid credential. In Wisconsin, manufacturing property is assessed by the Wisconsin Department of Revenue.

Board of Assessors—The first level of appeal in first class cities (Milwaukee) and certain second class cities (Madison). It consists of members of the Tax Commissioner's or Assessor's staff who investigate and act on assessment complaints.

Board of Review—The municipal body in charge of hearing assessment appeals. It consists of municipal officers or residents, or a combination of the two. It operates like a court and acts only on evidence introduced orally.

Certiorari—A judicial review by the Circuit Court of an allegedly illegal or erroneous assessment. The Court reviews only the written record of the Board of Review proceedings. No new evidence may be introduced.

Circuit Court—The first level of appeal of the court system. Usually located in each county, the Circuit Court hears appeals of the Board of Review, Department of Revenue, or municipality decisions.

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.

Equalized Value—The estimated value of all taxable real and personal property in each taxation district, by class, as of January 1 and certified by the Department of Revenue 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% of their full (fair market) value.

Excessive Assessment—An appeal to the municipality under sec. 74.37, Wis. Stats. claiming a property assessment is excessive. The property owner files a claim against the municipality to recover the amount of property tax imposed as a result of the excessive assessment.

Market Value—The definition of market value is the 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. 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; and
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.

Objection Form—This is the form you complete prior to the Board of Review. If you do not answer all of the questions, the Board may refuse to act upon your appeal.

Open Book—This is the period the assessment roll is open for public inspection prior to the Board of Review.

Real Property—Under most circumstances, real property includes the land, all buildings and improvements on it, and all fixtures, rights and privileges appertaining to it.

Re-assessment—This is the *redoing of the **existing** assessment roll* because of substantial inequities. All the property of the district is viewed, valued, and placed in the new assessment roll, which is then substituted for the original roll.

Revaluation—This is the *determination of new values for an upcoming assessment year.* 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.

Unlawful Tax—An appeal to the municipality under sec. 74.35, Wis. Stats. claiming a tax is unlawful because a clerical error was made in the description of the property or computation of the tax, the assessment included improvements which did not exist on the assessment date, the property was exempt from taxation, the property as not located in the municipality, a double assessment was made, or an arithmetic transposition or similar error has occurred.

OBJECTION FORM FOR REAL PROPERTY ASSESSMENT

Section 70.47(7)(a), Wisconsin Statutes states "No person shall be allowed in any action or proceedings to question the amount or valuation of property unless such written objection has been filed and such person in good faith presented evidence to such board in support of such objection and made full disclosure before said board..."

Note: The Board of Review can heat only sworn oral testimony regarding the value of the property. It cannot hear protests regarding the amount of property taxes or questions of exemption. The best evidence of the value of your property us a recent arm's-length sale of your property. The next best evidence is recent arm's-length sales of comparable property. If there are no sales of your property or comparable property, you should present other evidence that indicates the value of your property. This would include cost, appraisals, and sales of like property.

Property Owner's Name	Agent Name (If applicable)
Owner's Mailing Address	Agent's Mailing Address
Owner's Telephone Number	Agent's Telephone Number

Please provide the following information on the property and the assessment to which you are objecting. (Attach additional sheets, if necessary.)

1. Property Address_____
2. Legal Description or parcel number from the current assessment roll_____
3. Total Property Assessments_____
4. Please explain why you think the above assessed value is incorrect_____
5. In your opinion, what was the taxable value of this property in January 1 of the year being appealed?_____
   If this property contains acreage that is not in a market value class, provide a further opinion of the taxable value breakdown:

STATUTORY CLASS	ACRES	$ PER ACRE	FULL TAXABLE VALUE
Residential Total Market Value			
Commercial Total Market Value			
Agricultural Classification: # of Tillable Acres		@ $ acre use value	
# of Pasture Acres		@ $ acre use value	
# of Specialty Acres		@ $ acre use value	
Undeveloped Classification # of Acres		@ $ acre @ 50% of Market Value	
Agricultural Forest Classification # of Acres		@ $ acre @ 50% of Market Value	
Forest Classification # of Acres		@ $ acre @ Market Value	
Class 7 "Other" Total Market Value		Market Value	
Managed Forest Land Acres		@ $ acre @ 50% of Market Value	
Managed Forest Land Acres		@ Market Value	

6. Check the method of acquisition of the property: ☐ Purchase ☐ Trade ☐ Gift ☐ Inheritance
   Acquisition Price $_____ Date_____
7. Have you improved, remodeled, added to, or changed this property since acquiring it? ☐ Yes ☐ No
   If yes, describe:_____
   (a) When were the changes made?_____
   (b) What were the cost of the change?_____
   (c) Does the above figure include the value of all labor, including your own?..... ☐ Yes ☐ No
8. Have you listed the property for sale within the last five years?..... ☐ Yes ☐ No
   (a) If yes, when and for how long was the property listed?_____
   (b) What was the asking price?_____
   (c) What offers were received?_____
9. (a) Has anyone made an appraisal of this property within the last five years?..... ☐ Yes ☐ No
   (b) If yes, when and for what purpose?_____
   (c) What was the appraisal value?_____
10. Please list the name(s) of Board of Review member(s) you are requesting to be removed from your hearing. NOTE: This section does not apply in first and second class cities._____
11. Please provide a reasonable estimate of the length of time that the hearing will take_____

Owner's or Agent's Signature	Date

PA-115A (R. 11/09) Wisconsin Department of Revenue

NOTICE OF BOARD OF REVIEW DETERMINATION

IN ACCORDANCE WITH Section 70.47(12) of the Wisconsin Statutes you are hereby notified of your assessment for the current year 20____ as finalized by the Board of Review for the property described. IF YOU WISH TO APPEAL THIS ASSESSMENT FURTHER, SEE THE REVERSE SIDE.

PR-302 (R.11-07)

Town, Village or City of:			Date:
Parcel No.:			
Legal Description or Property Address:			
_____ ORIGINAL ASSESSMENT		_____ FINAL ASSESSMENT As Determined by Board of Review	
Land		Land	
Improvements		Improvements	
Pers. Prop.		Pers. Prop.	
Pers. Prop.		Pers. Prop.	
Pers. Prop.		Pers. Prop.	
TOTAL PERSONAL PROP.		TOTAL PERSONAL PROP.	
TOTAL ALL PROPERTY		TOTAL ALL PROPERTY	

Further Appeal Procedures

If you are not satisfied with the Board of Review's (BOR) decision, there are four appeal options available. Please Note: there are filing requirements for each appeal option. For more detailed information see the *Property Assessment Appeal Guide* at the following link: http://www.revenue.wi.gov/pubs/slf/pb055.pdf

Section 70.47(13) to Circuit Court - Action for Certiorari. Must be filed within 90 days after receiving the Determination Notice. The Court decides based on the written record from the Board of Review. No new evidence can be submitted.

Section 70.85 to Department of Revenue (DOR) - Within 20 days after receipt of the BOR's determination or within 30 days after the date specified on the affidavit under section 70.47(12) if there is no return receipt. A $100 filing fee is required. The fair market value of the items or parcels cannot exceed $1 million dollars. DOR may revalue the property any time before November 1 of the assessment year or within 60 days after receiving the appeal, whichever is later. If adjusted, the value is substituted for the original value and taxes paid accordingly. Appeal of the DOR's decision is to the Circuit Court.

Section 74.35 to Municipality - Recovery of Unlawful Tax. An unlawful tax is defined as: a clerical error in the description or computation of the tax, assessment of real property improvements not existing on the assessment date, property is tax exempt, property is not located in the municipality, a double assessment, or an arithmetic or similar error. The taxpayer does not need to appear at the BOR to appeal.

Section 74.37 to Municipality - Excessive Assessment. Must first appeal to the BOR and have not appealed the Board's decision to Circuit Court or to the Department of Revenue.

No claim for an excessive assessment may be brought under sections 74.35 or 74.37 unless the tax is timely paid. Claims under sections 74.35 or 74.37 must be filed with the municipality by January 31 of the year the tax is payable. If the municipality denies the claim, the taxpayer may appeal to Circuit Court within 90 days after receiving notice by registered or certified mail that the claim is disallowed.

Equalization District Offices

District Supervisor	Counties
Madison District Office (76) Jim Young MS 6-301 PO Box 8909 Madison, WI 53708-8909 Phone (608) 266-8184 | E-mail FAX (608) 267-1355	Columbia, Crawford, Dane, Dodge, Grant, Green, Green Lake, Iowa, Jefferson, Lafayette, Marquette, Richland, Rock, Sauk, Vernon
Milwaukee District Office (77) Vacant 819 North 6th St Room 530 Milwaukee, WI 53203-1606 Phone (414) 227-4455 | E-mail FAX (414) 227-4071	Fond du Lac, Kenosha, Milwaukee, Ozaukee, Racine, Sheboygan, Walworth, Washington, Waukesha
Eau Claire District (79) Diane Forrest 610 Gibson St Ste 7 Eau Claire, WI 54701 Phone (715) 836-2866 | E-mail FAX (715) 836-6690	Barron, Bayfield, Buffalo, Burnett, Chippewa, Douglas, Dunn, Eau Claire, Jackson, La Crosse, Monroe, Pepin, Pierce, Polk, Rusk, St. Croix, Sawyer, Trempealeau, Washburn
Wausau District Office (80) Albert Romportl 730 Third St Wausau, WI 54403-4700 Phone (715) 842-5885 | E-mail FAX (715) 848-1033	Adams, Ashland, Clark, Iron, Juneau, Langlade, Lincoln, Marathon, Oneida, Portage, Price, Taylor, Vilas, Wood
Green Bay District Office (81) Mary Gawryleski 200 N Jefferson St Ste 126 Green Bay, WI 54301-5100 Phone (920) 448-5195 | E-mail FAX (920) 448-5207	Brown, Calumet, Door, Florence, Forest, Kewaunee, Manitowoc, Marinette, Menominee, Oconto, Outagamie, Shawano, Waupaca, Waushara, Winnebago

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