



**CITY OF WAUWATOSA**  
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**BOARD OF REVIEW**  
**Tuesday, June 10, 2010 – 1:30 p.m.**

PRESENT: Mr. Benz, Mr. Duffey, Mr. Lemke

ALSO PRESENT: Mr. Kesner, City Attorney; Mr. Miner, City Assessor; Mr. Lenski, Dep. City Assessor

Mr. Benz in the Chair

**2400 N. Mayfair Road**  
**Tax Key: 335-9998-16**

Mr. Benz reported that according to the Stipulation and Order regarding the 2010 assessment for Bonstores Realty One, LLC, the parties are agreeing to keep Bonstores' assessment for 2010 at the same level as 2009.

It was the consensus of the board to approve the foregoing stipulation.

Deputy City Clerk Van Hoven swore in Assessor Miner, Deputy Assessor Lenski and the a representative for Walgreens, Richard Donner, Reinhart Boerner Van Deuren, 22 E. Mifflin Street, Madison.

**Walgreens Assessments**

**6600 W. State Street**  
**Tax Key: 384-0009-02**

Assessed Value as of January 1, 2010 was: \$2,983,800  
Taxpayer's estimate: \$2,700,000

**2275 N. Mayfair Road**  
**Tax Key: 339-9999-00**

Assessed Value as of January 1, 2010 was: \$9,543,500  
Taxpayer's estimate: \$3,000,000

**10800 W. Capitol Drive**  
**Tax Key: 256-0075-07**

Assessed Value as of January 1, 2010 was: \$3,212,000  
Taxpayer's estimate: \$2,600,000

**2656 Wauwatosa Avenue**  
**Tax Key: 331-0777-01**

Assessed Value as of January 1, 2010 was: \$2,888,300  
Taxpayer's estimate: \$2,600,000

Mr. Donner presented an income analysis and comparable properties for each of the four Walgreens locations. He described the process he used to make his conclusions. Based on market research, they have

a gross potential rent of \$315,447 with a net operating income of \$277,231 and a 10.4% cap rate and estimated their fair market value at \$2.75 million.

Mr. Minor asked if Mr. Donner was a certified Wisconsin assessor or appraiser. Mr. Donner replied in the negative.

Mr. Miner noted that he is certified as an Assessor II and III by the Department of Revenue and he has been an assessor for Wauwatosa and other municipalities in Wisconsin. He stressed that a sale of the property is the best evidence of value. If there has been no sale then the comparables are the next best indicators. The properties in question are a combination of retail and pharmacy and there is sufficient parking.

Mr. Miner described a chart that showed how an assessment is determined. He commented that they use three approaches: 1) the cost approach; 2) the income approach; and 3) the market approach. He felt the property should be assessed at market value as the most reliable indicator. Mr. Miner stressed that the Markarian Hierarchy is required by assessors.

Mr. Benz stressed that the burden is on the taxpayer or their representative to prove that the Assessor's numbers are incorrect.

Mr. Miner mentioned that Mr. Donner hadn't included a recent sale in his presentation although there are hundreds of Walgreens that could be used as comparables. He added that this property on State Street is a little bit better than average in quality. The location has plenty of access and is surrounded by commercial businesses. He noted that Mr. Donner had said that the indicated value with a 10.4% cap rate is approximately \$2,700,000.

Mr. Miner noted a stipulation by the State Supreme Court in *Markarian v. City of Cudahy*, 45 Wis. 2d 627 (1970) which defines market value as the standard that assessors should use when valuing all property. When market value is established by a fair sale of the property, or sales of reasonably comparable properties are available, it is an error for an assessor to resort to other factors in order to determine its fair market value although such factors in absence of such sales would have bearing on its value. Only the absence of a sale of the property in question or sales of reasonably comparable property, can the tax assessor, in determining fair market value, consider all factors collectively, which have bearing on the value of the property.

Mr. Miner explained that the income approach has to be included with other approaches. This is a triple net lease which means that the leasee must pay for the taxes which is why Mr. Donner is filing an objection on behalf of Walgreens.

Mr. Miner noted that not all the Walgreens in this group are the same. There are three stand alone stores and the one located at 2275 N. Mayfair Road that is in a tenant structure. In the four leases they all reference a maximum amount for rent. The actual rent is the base rent within the lease or 15% of gross sales.

With regard to 2275 N. Mayfair Road, Mr. Donner thought the fair market value was \$3,000,000. Mr. Miner commented that he had looked at the whole site and found that it would be a difficult discussion because they are not valuing just the Walgreens there.

Mr. Kesner commented that it was his understanding that the lease for that property does not give the tenant the right to ask for a lower assessment because the owner pays the taxes. Mr. Donner responded that he would like to look at this further and keep the objection open.

With regard to the last two properties at 10800 W. Capitol Drive and 2656 Wauwatosa Avenue, Mr. Miner felt that the income evidence submitted by Mr. Donner was not as strong as the sale of comparable properties and does not substantiate the claim.

Mr. Kesner asked who owned the property in question. Mr. Donner responded that it was owned by Walgreens.

Mr. Miner asked the board to consider the methodology he used according to state guidelines and the direction of the State Supreme Court along with the Markarian Hierarchy. He reiterated that income alone was not enough to make a determination on assessed value. He felt that Mr. Donner did not meet the burden of proof.

Mr. Duffey noted that Exhibit 8 shows the current assessment to be the same as the 2006 revised assessment. He asked if there was any further information on that. Mr. Miner responded that he looked for information on the issue, but that decision was made before he came to work for the city. Mr. Kesner added that the revision was done at an informal meeting with the former Assessor.

In the matter of the Objection to Real Property Assessment at three Walgreens locations, the board rejected the requests. The board found that the representative for Walgreens located at 6600 W. State Street, 10800 W. Capitol Drive, and 2656 Wauwatosa Avenue had not met the burden of proof and therefore the assessor's decision should be sustained – 3

Mr. Kesner told Mr. Donner that he will get further information regarding 2275 N. Mayfair Road and speak with the board. The board will get back to Mr. Donner on any potential future hearings concerning this property.

The board recessed at 3:15 p.m.

Susan Van Hoven, Deputy City Clerk

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