



CITY OF WAUWATOSA  
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**BOARD OF REVIEW**

**Wednesday, September 25, 2013 – 9:00 a.m.**

PRESENT: Messrs. Benz, Stefaniak, Walsh -3

ALSO Mr. Kesner, City Attorney; Mr. Miner, City Assessor; Mr. Lenski, Deputy  
PRESENT: Assessor; Mr. Tuff and Ms. Chabron, Staff Appraisers; Ms. Ledesma, City Clerk

Mr. Benz in the Chair

**Consideration of Request to Accept Objection Form Pursuant to Wis. Statutes 70.47 (3)(ak).**

Dustin and Jessica Wolff, 4500 Gordon Avenue, Monona, were present, and advised that they purchased the property at 2640 N. 117<sup>th</sup> Street on September 18, 2013. Mr. Wolff explained that he contacted the Assessor's office on August 13 about the property's assessed value. They had made an offer on the property by then and wished to meet with staff during the open book period. However, one of the appraiser told him that they did not have standing and could not petition the City until they closed on the property. The closing was held September 18<sup>th</sup>, the same day as the Board's first meeting after the assessment roll was complete.

Mr. Wolff stated he contacted the City immediately after the closing and was told the window to file an objection had closed. It was their intention to comply with the established process, but for the timing of their closing.

Mr. Tuff stated the staff would be willing to review the assessment for next year, but it is staff's position that since the Wolffs did not have legal possession of the property until September 18<sup>th</sup>, they could not comply with the objection form submission deadline.

Mr. Kesner noted that 70.47 (3)(ak) of the State Statutes does provide the Board of Review with the discretion to waive the notice and submission requirements for extraordinary circumstances if they wish.

In response to a query Mr. Walsh, Mr. Wolff stated that the previous owner of the property was a bank. The bank was difficult enough to work with to secure the closing date, and was disinclined to file an objection form on their behalf.

It was moved by Mr. Walsh, seconded by Mr. Stefaniak  
to waive the notice requirements, accept the objection form,  
and schedule it for hearing. -3

John Eggers, Straighen & Strengthen Fitness Solutions, 8316 W. Blue Mound Road, stated that he never received the initial letter from the Assessor's office requesting that commercial property owners report certain personal property information. He opened his business in Wauwatosa in March 2012. The first notification he received arrived in the mail just a few weeks ago and contained information about the Board of Review meeting held on September 18, 2013.

An unknown staff member suggested he appear at the hearing today to request that notification requirements be waived and he be permitted to submit his personal property assessment objection form.

Mr. Tuff confirmed that all known commercial property owners were mailed on January 2, 2013 a personal property schedule printed by the WI Department of Revenue. The submission deadline listed in that letter was March 1, 2013. If staff does not receive the requested information, a value is established for the personal property based upon the best information available.

Ms. Chabron stated that she spoke to Mr. Eggers earlier this week, who indicated that he received his assessment notice, but not the personal property statement. His property is in the Assessor's computer system, so it is presumed his statement was mailed in January along with all the others. The personal property statement information is also available on the City's website and on the Department of Revenue's website.

Mr. Benz pointed out that the Board's rules stated that failure to receive a notice is not a reason for the Board to accept a late objection form.

Mr. Eggers stated he understood the need to assign a value absent his submission of the information, but the \$50,000 value is \$48,000 higher than what he actually has. When his business was located in Brookfield, the personal property valuation was about \$2,000.

It was moved by Mr. Stefaniak, seconded by Mr. Walsh to deny the request to waive the notice and submission requirements and accept the objection form. -3

Atty. Alan Marcuvitz, Michael Best and Friedrich LLP, 100 E. Wisconsin Avenue, Milwaukee, was present on behalf of the property owner of 1200 and 1233 N. Mayfair Road to request a waiver of notice and submission requirements and acceptance of the objection forms. The mailed copies of the objection forms were received by the City Clerk's office on September 18, 2013 at 11:16 a.m., after the Board had recessed for the day. No authorized representative of the aforementioned properties had appeared during the first two hours of the Board's meeting to request the waiver.

Mr. Marcuvitz explained that prior to August 20 his firm had been retained by several of the City's property owners, particularly those impacted by the Zoo freeway project. Between August 20 and August 29, issues on 8 of 12 properties were resolved with the Assessor's office. As of September 1, issues remained on four of the properties and the intent was to file timely objection forms by September 13. The four unresolved properties include the two subject properties on Mayfair Road.

After a phone call with the Assessor's office on September 11, a meeting was scheduled for September 12 to discuss the four properties. Two of the four properties' issues were resolved on September 16, leaving just the two Mayfair Road properties unsettled. During the meeting on

September 12, Mr. Miner advised that the staff appraiser (Mr. Tuff) responsible for the two Mayfair Road properties was unavailable and would return to the office on September 16, whereupon he would review the matter. Mr. Marcuvitz indicated he asked - given the pending additional review on these properties - whether the property owner needed to do anything else (procedurally) to proceed to the Board of Review should agreement not be made. Mr. Marcuvitz contended that he and his paralegal were advised that if the issues remained unresolved on September 16, they could still file the objection forms. (Note: The deadline for timely submission of objection forms was 9 a.m. on September 16, 2013, 48 hours in advance of the Board's September 18 meeting at 9 a.m.)

Mr. Marcuvitz stated that inquired about the properties' status on September 16 and Mr. Miner indicated that Mr. Tuff would be in contact at his earliest convenience. Mr. Tuff finally replied on September 16 at 4:12 p.m. that no changes to the assessment would be made.

Mr. Marcuvitz stated he instructed his staff on September 17 to fax the two objection forms. This was done at 9:47 a.m. to the City Attorney's office; copies were also mailed. Copies were faxed to the Assessor's office at 9:52 a.m. His cover letter of September 17 asked whether it would be necessary to appear at the Board's September 18<sup>th</sup> meeting.

In a letter dated September 19, and received by Mr. Marcuvitz on September 20, the City Clerk (Secretary to the Board) advised that he may wish to appear at the Board's September 25<sup>th</sup> hearing to request a waiver of notice and submission requirements and acceptance of the objection forms for 1200 and 1233 N. Mayfair Road.

Mr. Kesner confirmed the two objection forms were not filed within the 48 hours prior to the Board's September 18<sup>th</sup> meeting. The fax was sent to the City Attorney's office on September 17; assuming it was duplicate information (because the Attorney's office is not the correct filing office for objection forms), the Attorney's office did not forward it to anyone. He confirmed the receipt time was 9:47 a.m.

Mr. Marcuvitz stated he was unaware of another, more appropriate, fax number to use.

Mr. Tuff confirmed that following a phone call on August 5 about the 12 properties being represented by Mr. Marcuvitz's firm, and an August 10 email from a paralegal asking for a meeting, the meeting was scheduled for August 20 at 2 p.m. Proper agent authorization was submitted and Mr. Marcuvitz submitted information on the properties. Inasmuch as the Assessor's office did not mail assessment notices until August 13, it is apparent that Mr. Marcuvitz intended to object to the assessments before the final figures were known.

Following the meeting a letter was drafted on August 29; it was faxed and mailed and concerned six properties' assessments. Mr. Tuff stated that on September 3, the last day for open book, notices were mailed and faxed directly to Mr. Marcuvitz's office. The next time Mr. Marcuvitz contacted the Assessor's office was on September 12 when additional information was provided. Mr. Tuff was back in the office on September 16, but thought that these two properties were settled since he hadn't had any contact with Mr. Marcuvitz for two weeks. On September 16 at 8:46 a.m., an email from the paralegal to Mr. Miner asked about new notices. At 9:27 a.m. Mr. Miner responded about 10400 Innovation Drive, and at 9:29 a.m., the paralegal asked about the status of the two subject properties. At 11:10 a.m. she asked whether they should file objections for the two parcels; staff cannot answer such a question. Mr. Tuff also reminded the paralegal that reductions were made during open book.

Mr. Marcuvitz sent the letter and objection forms on September 17; they were received after the Board had recessed on September 18. Mr. Tuff noted that per the Board's rules, the conditions under which late objections may be accepted are limited.

There was some question whether Mr. Marcuvitz's fax was sent on September 17 at 9:47 a.m. or 9:47 p.m. An email from the Assistant City Attorney indicated it was in the evening; however Mr. Kesner opined that there was a problem with the office fax machine inasmuch as he remembered picking up the fax from the machine in the morning. Mr. Kesner summarized that there are two issues – whether the objection forms were timely filed prior to September 18, and if they weren't, do extraordinary circumstances exist to warrant their acceptance now.

Mr. Marcuvitz noted that these two properties were still under review on September 16, the deadline for timely submission of objections. The matter was still fluid at that point; they had been in discussions for weeks on these two properties. Meetings on the 12 properties were initially held in August to acquaint the Assessor with the eminent domain issues facing some those properties because of the Zoo interchange construction project. Meetings on the remaining two properties were ongoing for some time in an effort to resolve differences. The property owner simply is seeking the opportunity to be heard.

In response to questions by Mr. Walsh, Mr. Marcuvitz confirmed that he was aware of the 48-hour notice requirement and that the Board meeting was 9 a.m. on September 18. Mr. Walsh suggested that perhaps Mr. Marcuvitz should have been more concerned that Mr. Tuff could not perform his final review until September 16, the intent deadline. Mr. Marcuvitz indicated that he did not file as it was his understanding from Mr. Miner that it was unnecessary to do so until the matter was resolved. Had he been told to appear at the Board's meeting of September 18, he would have done so.

Mr. Miner reiterated that they do not advise owners whether or not to file objection forms or notices of intent to file. Mr. Marcuvitz was made aware on September 12 that Mr. Tuff was handling these properties and was out of the office until September 16. The third-year financial information provided on September 12 was not reviewed until September 16.

Mr. Tuff added that his letter to Mr. Marcuvitz shows that the review process concluded on August 29. There was adequate time to file an objection form.

Mr. Marcuvitz contended the information provided on September 12 did not pertain to the subject properties, but to the property on Innovation Drive.

Mr. Walsh inquired whether the filing of an objection form or a notice of intent on, say, September 13 would have prevented resolution on September 16 of the issues involving the two properties. Mr. Miner replied that agents and owners typically file notices of intent or objection forms timely, and reach resolution with the Assessor's office prior to the Board hearing. Mr. Tuff added that a stipulation could have been submitted for the Board's approval had agreement been reached.

It was moved by Mr. Walsh, seconded by Mr. Stefaniak to deny the request to waive the notice and submission requirements and accept the objection form. -3

**Compliance Review of Supporting Documentation Requested to be Provided for Various Properties.** Chad Zeznanski, Wipfli LLP, 10000 Innovation Drive, was present as an authorized representative on behalf of the property owner of 515 Glenview Avenue, 8306 W. Blue Mound Road, 8318 W. Blue Mound Road, 8340 W. Blue Mound Road, and a parking lot on Glenview Avenue.

Mr. Zeznanski asked that the Board agree to hear the objection forms timely filed for the aforementioned properties. He has been involved in ongoing discussions with the Assessor's office about their assessments.

Mr. Zeznanski stated that Mr. Miner requested that income and expense information be submitted on the subject properties. The property owner is 80 years old and Mr. Zeznanski stated he has submitted all the documents to the extent he is able; the owner's records treat some expenses (i.e., snow removal or refuse disposal) as though all the properties are one. That is, the owner does not necessarily keep separate snow removal records on each parcel. That said, Mr. Zeznanski verified that the expenses and rental income information that was provided should be sufficient for Mr. Miner to perform the necessary analysis by allocation. Mr. Zeznanski added that his client asked his accountant whether a more thorough breakdown was possible; the information could not be submitted by the noon, September 24, 2013 deadline.

In response to a query by Mr. Stefaniak, Mr. Zeznanski stated that while the parcels are taxed individually, his client tends to treat them as just two properties since they are multiple connected buildings.

Mr. Zeznanski stated that he is not using an income approach to value the property, and neither did the Assessor's office (because he did not have data). Mr. Zeznanski stated he is using other acceptable valuation methods. The state assessment manual does not require that data be submitted in a certain format and it appears this requirement may be an effort to prevent an objection from being heard.

Mr. Miner replied that income/expense information for 2010-11-12 (with specific breakdowns for each year) was uniformly requested of all commercial property owners in January 2013, with a due date of March 1, 2013. Confidential rent roll information was requested. What was provided was confusing, at best. Mr. Miner tried to create income information for each property and sent a draft to Mr. Zeznanski for confirmation on September 13 and on September 16. The only documentation that has been provided is a combined statement labeled '84<sup>th</sup> & Blue Mound' and '515 Glenview.' Only two years' worth of data was submitted. The contents of the revenue accounts is uncertain. Expense allocation can be done, but since these are mixed-use properties, actual allocations will differ from straight percent allocations.

Mr. Miner added that the March 1, 2013 deadline for submission of information was to give staff time to perform the necessary analyses on the commercial properties in establishing values. The income approach should be used because it is an appropriate method to use. These parcels need to be valued separately because they could be sold separately.

Mr. Walsh asked whether there is sufficient information available from 2010 and 2011 to value 515 Glenview Avenue. Mr. Miner replied he does not have 2012 information or an accurate rent roll. Mr. Zeznanski added that the parking lot is contained in the 515 Glenview Avenue information. Mr.

Zeznanski noted that Mr. Miner used the market approach for valuing this property and that is the data that should be considered. Mr. Miner countered that he attempted to perform the income approach based on actuals as well as based on market data; the actual income analysis supports a higher value than what is assessed.

It was moved by Mr. Stefaniak, seconded by Mr. Walsh to deny the request to hear the objections as the requested data was not supplied. -3

**2567 N. 71<sup>st</sup> Street  
331-0099-00**

City Clerk Ledesma swore in property owner Matthew Thurin, Deputy Assessor Lenski and Ms. Chabron, staff appraiser.

The assessed value as of January 1, 2013 was:

Land	\$ 51,300
Improvements	179,300
Total	\$230,600

Mr. Thurin stated his opinion of value is \$190,000. He produced information on sales of similar properties within the last nine months within a one-mile radius:

2558 N. 72<sup>nd</sup> Street, 2334 N. Lefebber Avenue, 2232 N. 66<sup>th</sup> Street, 2202 N. Lefebber Avenue

These houses also have three bedrooms, one bathroom, and single car garages as his does. The lowest sale price in 2012 was \$72,000 and the highest (in 2013) was \$180,000. (His own home was purchased in 2007 for \$219,000).

Mr. Thurin pointed out that the house at 2573 N. 71<sup>st</sup> Street (right next to his) looks virtually identical to his from the outside. However, due to interior remodeling, the neighbor's house has 1,695 sq. ft. (vs. 1,332, Thurin) and has five bedrooms (vs. 3, Thurin), and two bathrooms (vs. 1 Thurin). That property's assessment, however, is \$223,000.

Additional properties in the vicinity with two or 2 ½-car garages sold for between \$118,000 and \$228,000.

Mr. Thurin also submitted a September 2010 appraisal that was performed on his property for refinancing purposes; the appraised value at that time was \$183,000. Mr. Thurin addressed four comparable properties used in the appraisal, noting that each sold in 2010 for between \$197,000 and \$190,500.

Mr. Stefaniak opined that 2010 comparables are not relevant inasmuch as the market has changed considerably since then. He added that a refinancing appraisal is performed for a specific purpose and does not prove that a buyer would have been willing to pay that price. In today's residential market, the subject property is likely valued very close to what it should be. Some of the comparables cited by the property owner are of lower quality.

Mr. Thurin concurred that the market is very different since January 2013, but pointed out that his assessment was based upon sales prior to 2013.

Ms. Chabron stated that the property owner did not discuss his concerns about the assessment notice prior to filing his objection with the Board. She noted that some of the comparables used by the property owner are in a different neighborhood (#304) than his own property (#303). She also pointed out that the owner's comparables' sales prices have not been adjusted to acknowledge the differences that exist among the properties. Additionally, those comparables are inferior to the subject property in terms of quality and updates. Neither is the appraiser present to answer questions. She addressed the Condition Reports submitted on three of Mr. Thurin's comparables, noting that defects reported could have resulted in lower sales prices on any of those properties.

Ms. Chabron reviewed the 2007 MLS listing on the subject property, pointing out that features such as leaded and stained glass windows, a built-in buffet, natural woodwork and an updated kitchen were mentioned. She introduced the five comparable properties sold in 2010 and 2011 that were selected by the assessing software, noting that sales prices were adjusted to account for differences with the subject property. Comparables cited: 2330 N. 62<sup>nd</sup> Street, 2333 N. 66<sup>th</sup> Street, 2351 N. 62<sup>nd</sup> Street, 2656 N. 67<sup>th</sup> Street, and 2433 Lefebvre Avenue.

In response to a concern Mr. Stefaniak expressed about two of the city's comparables having just two bedrooms, Mr. Lenski acknowledged the difficulty in finding comparables in the past few years because of the economic downturn. The adjusted sales prices for the two-bedroom comparables were adjusted upward to account for the bedroom difference.

Mr. Walsh mused about the different assessed values for Mr. Thurin's property and his neighbor's property with the same footprint, especially given the disparity in the number of bedrooms and bathrooms. Mr. Lenski speculated that the quality of the improvements and/or the condition of the property overall is a factor in the difference. Mr. Lenski added that if improvements are made to a property without proper permits being pulled, the city may not be aware of those improvements. Hence, they would not be immediately reflected in assessed value.

Mr. Thurin disputed some of the Assessor's comparables, noting that 2330 N. 62<sup>nd</sup> Street has a remodeled kitchen, crown moldings and leaded glass; the sale price was \$190,500. He pointed out that some of the comparables have four bedrooms, two bathrooms, finished basements, and two-car garages. Mr. Lenski reminded everyone that the assessment software takes these differences into account and makes adjustments.

The hearing was declared closed.

It was moved by Mr. Stefaniak, seconded by Mr. Walsh to set the property's total value at \$220,000 (reducing value of the improvements to reach this figure). -3

**Stipulations:** The following stipulations were read into the record:

376-9984-00	<u>2012</u>	<u>2013</u>	<u>Change</u>
Land	68,400	72,300	3,900
Improvements	255,600	217,900	37,700
TOTAL	324,000	290,200	33,800
254-0302-00			
Land	36,900	32,100	4,800
Improvements	141,000	133,500	7,500
TOTAL	177,900	165,600	12,300

It was moved by Mr. Stefaniak, seconded by Mr. Walsh  
to approve the foregoing stipulations. -3

There being no further business, the hearing adjourned at 12:03 p.m.; recessed until 9:00 a.m. on  
Wednesday, October 2, 2013.

Carla A. Ledesma, Board Secretary

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