Wisconsin Department of Revenue

2016
Property Assessment Appeal Guide for Wisconsin Real Property Owners

Prop 055 (R. 1-16)

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I. Introduction

The purpose of this guide is to help property owners in Wisconsin understand how to appeal an assessed value.

II. Property Taxes and Property Assessments

A. Property taxes

Property taxes fund functions of government and education, including:

- Municipalities
- Counties
- Public Schools
- Technical Colleges
- State Reforestation
- Special Districts (sewer and lake rehabilitation)

B. Property assessments

Property assessments are the values the assessor places on taxable real and personal property. An assessment determines the portion of property tax that is due from the property.

1. What property assessments are based on:

- Amount a typical purchaser would pay for the property under ordinary circumstances. An exception is agricultural property that is assessed based on its value in an agricultural use
- Assessments should be uniform "at the full value which could ordinarily be obtained therefore at private sale" (Sec. 70.32, Wis. Stats.). This is considered full value.

2. Classes of property are assessed at different values:

100 percent of full value:

- Residential
- Commercial
- Manufacturing (state-assessed)
- Productive forest land
- Other (farm buildings and farm sites)
- Personal property

50 percent of full value:

- Undeveloped land
- Agricultural forest land

Use-value:

- Agricultural land

III. Assessment Process

A. Municipal assessor is responsible for the assessment process

1. Discover – all real and personal property is subject to tax unless exempted by law
2. List – property characteristics determine value
3. Value – determine the value subject to property tax

B. Assessment classification

State law requires the assessor to classify land on the basis of use. Classification is important since it affects the assessed value.

Eight statutory classifications for real property are:

1. Residential (Class 1) – sec. 70.32(2)(c)3., Wis. Stats.

- Any parcel or part of a parcel of untilled land that is not suitable for the production of row crops, on which a dwelling or other form of human abode is located
- Vacant land where the most likely use would be for residential development
- Mobile homes assessed as real property are classified as residential
- Apartment buildings of up to three units are also classified as residential

2. Commercial (Class 2)

- Land and improvements primarily devoted to buying and reselling goods
- Includes the providing of services in support of residential, agricultural, manufacturing, and forest uses

3. Manufacturing (Class 3)

- State law (sec. 70.995, Wis. Stats.), provides for the state assessment of manufacturing property
- Contact the manufacturing district office (revenue.wi.gov/contact/slfdoc.pdf) for information on qualifying uses

4. Agricultural (Class 4)

- Sec. 70.32(2)(c)1g., Wis. Stats., defines as "land, exclusive of buildings and improvements, which is devoted primarily to agricultural use."
- Land devoted primarily to the production of crops (excluding forestry operations) or the keeping, grazing, or feeding of livestock for the sale of livestock or livestock products
- Buildings and dwellings associated with growing, production, and associated services enumerated above are classified as "Other" (Class 7)
- Agricultural Assessment Guide for Wisconsin Property Owners provides classification examples

5. Undeveloped (Class 5) – sec. 70.32(2)(c)4., Wis. Stats.

- Areas commonly called marshes, swamps, thickets, bogs, or wet meadows
- Fallow tillable land (assuming agricultural use is the land's highest and best use),
- Road right of way, ponds, depleted gravel pits
- Land because of soil or site conditions is not producing or capable of producing commercial forest products

6. Agricultural forest (Class 5m)

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

» 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

- Agricultural Assessment Guide for Wisconsin Property Owners provides classification examples

7. Productive forest land (Class 6) – sec. 70.32(2)(c)2., Wis. Stats.

- Land, which is producing, or capable of producing commercial forest products. Forest land can no longer include buildings and improvements.
- Forested areas which are being managed or set aside to grow tree crops for "industrial wood" or to obtain tree products such as sap, bark, or seeds
- Forested areas with no commercial use made of the trees, including cutover
- Cherry orchards, apple orchards, and Christmas tree plantations are classified as agricultural property
- Lands designated Forest Crop Land and Managed Forest Land by the Department of Natural Resources are entered separately in the assessment roll
- Improvements on Forest Crop Lands and Managed Forest Land are to be listed as personal property (secs. 77.04(1), and 77.84, Wis. Stats.)
- Forested areas primarily held for hunting, trapping, or in the operation of game preserves, should be classified as forest unless clearly operated as a commercial enterprise or exempt

8. Other (Class 7) – sec. 70.32(2)(c)1m., Wis. Stats.

Buildings and improvements on a farm (such as houses, barns, and silos, along with the land necessary for their location and convenience)

IV. Municipal Assessor

You (the owner) must contact the municipal assessor for your current assessment and classification. DOR publishes the name of each municipality's assessor and contact information at revenue.wi.gov/training/assess/assrlist.pdf. Current year assessments are typically available before the second Monday in May. The assessor sends notification to each owner of real property, or any improvements taxed as personal property, whose total assessment changed from the previous year. If you do not receive a notice, it does not invalidate the assessment.

Under state law (sec. 70.365, Wis. Stats.), the notice must be in writing and mailed at least 15 days (30 days in revaluation years) before 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 includes information on how to appeal the assessment. **Note:** The notice requirement does not apply to personal property.

A. Meet with the assessor

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

When you meet with the assessor you should ask questions to help you understand the assessment process and how your assessment was determined. Ask the assessor to show you the records for your property and to explain how your assessment was determined. 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. An informal discussion with the assessor can often resolve a problem before bringing an appeal to the BOR. Municipalities provide assessment and appeal information at open book.

B. Open Book

Under state law (sec. 70.45, Wis. Stats.), the assessment roll must be open for inspection (open book) for a minimum of two hours prior to the BOR. The first meeting of the BOR is scheduled to occur in the 30 days following the second Monday of May. At least 15 days (30 days in revaluation years) 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 is available at the open book. Call the clerk to verify the open book and BOR dates .

C. Refusal to allow assessor inside to view property

If you deny the assessor's request to view the property, the assessor will send a certified letter requesting entry to the property. If you deny entry, the assessor will value the property using the best information available and you lose the right to appeal to the BOR. Most actions of appeal require that the assessor be allowed to enter the property.

V. Board of Review (BOR)

A. BOR members

The BOR consists of municipal officials, residents or a combination of the two. In first-class cities and in all other towns, cities and villages who pass an ordinance to that effect, the BOR may consist of five to nine residents of the town, city or village. In most cases, the municipal clerk also functions as the BOR clerk.

B. BOR details

1. **Holding a BOR –** a BOR cannot be held unless it includes at least one voting member who has attended a DOR approved training session for BOR members within the two years before 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 on sworn evidence presented at the hearing.
2. **BOR must correct any assessment errors –** the BOR examines the roll and corrects all apparent errors in descriptions or calculations, and adds any omitted property to the roll. The BOR must notify the property owners concerned and hold hearings before omitted property can be added to the assessment roll and before any other lawful changes can be made.
3. **BOR cannot address tax issues –** 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.
4. **BOR can question accuracy of a property assessment –** state law makes no provision for you to appeal another individual's property assessment. However, if the 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, time and place of the hearing. The hearing must be conducted according to the procedure established in state law (sec. 70.47(8), Wis. Stats.). The BOR may then adjust the assessment based on the evidence before them.

5. **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 (30 days in revaluation years) before the first meeting of the BOR, the BOR's clerk must publish a class 1 notice; post a notice in at least three 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 state law (sec. 70.47 (7) (aa) and (ac) to (af), Wis. Stats.).

6. **Notice of Changed Assessment –** if you received a Notice of Changed Assessment, the time, date and place of the BOR meeting will be printed on it. Contact your municipal clerk to confirm when the BOR will be held.

7. **BOR can waive the BOR hearing –** starting in 2015, state law allows the BOR to waive the BOR hearing and allow the property owner to appeal directly to the circuit court. The BOR determines whether it will waive the BOR hearing. Contact the municipal clerk if you have an interest with an appeal directly to circuit court.
   Note: You cannot appeal your assessment to DOR under state law (sec. 70.85, Wis. Stats.) if the BOR waives the BOR hearing.

C. Removal of a BOR member

1. BOR members can be removed by the objector (except in 1st and 2nd class cities), if any of the following conditions apply:

- Person objecting to his/her assessment requests the removal of a BOR member for any reason – only one member may be removed for this reason
- Member has a bias or prejudice

2. Request to remove a BOR member(s) must meet the following requirements:

- Request must be made at:
  - » The time the person provides his/her written or oral notice of intent to file an objection
  - » Least 48 hours before the first scheduled BOR meeting or at least 48 hours before the objection is heard if the BOR waived the 48-hour notice requirement
- Notice must identify the member(s) to be removed
- Submit an affidavit stating the objector believes the member has a bias or prejudice and state the nature of the bias or prejudice

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

D. Review of assessment by BOR

1. To schedule a hearing at the BOR you must do the following:

- Provide written or oral notice of your intent to file an objection to the BOR clerk
  - » Notice of intent to file an objection must be made at least 48 hours before the BOR's first scheduled meeting
- File an objection form with the BOR clerk during the first two hours of the BOR's first scheduled meeting
  - » Obtain an objection form from your municipal clerk or use the form in this Guide
  - » You must file a completed objection form or the BOR may refuse to act on your appeal

2. Waiving the 48-hour filing deadline

- BOR **may** waive the 48-hour filing deadline for the notice of intent. As the property owner, you must show good cause and submit a written objection within the first two hours of the BOR's first scheduled meeting
- 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 may be done up to the end of the fifth day of the BOR session
- 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
- You must object to the total value of the property. If the property has an improvement, you cannot object to only the land value or only the improvement value.

E. Appealing classification: agricultural, undeveloped or agricultural forest land

Classification can impact the assessed value of your property. Contact the municipal assessor before the BOR and arrange to review the assessment records (often referred to as the open book) and discuss the classification. If you are not satisfied with the classification of your land, you can appeal to the BOR.

1. Agricultural land

a. Use-value assessment – 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.

b. DOR publishes Use Value Guidelines – for agricultural land in Wisconsin. Assessors use the values to calculate assessments for agricultural land.

c. Agricultural land – is defined in state law (sec. 70.32(2)(c)1g, Wis. Stats.), as "land exclusive of buildings and improvements and the land necessary for their location and convenience that is devoted primarily to agricultural use as defined by rule." Buildings and improvements on a farm such as barns, houses, and silos, together with the land necessary for their location and convenience, are separately classified and continue to be assessed at fair market value.

d. Verify land use – 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.

e. 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 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.

f. Classification examples – review the Agricultural Assessment Guide for Wisconsin Property Owners for classification examples

2. Agricultural forest and undeveloped land

- An appeal of agricultural forest or undeveloped land should demonstrate how the land meets the appropriate definition under state law (sec. 70.32(2), Wis. Stats.)
- **Note:** Residential class includes most property where the predominant use is for living purposes. It also includes vacant land where the most likely use would be residential development.

F. Appearance at the BOR

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

It is important that you appear at the BOR. Most appeal methods require that you first appear at the BOR. You may designate a personal representative to appear before the BOR on your behalf.

Appearance details

1. **BOR schedules a time for hearing objections –** during the first two hours of its first meeting
2. **Notices are given to the property owner and assessor –** at least 48-hours before an objection hearing. The property owner and assessor may agree to waive the 48-hour notice requirement.
3. **If you cannot attend the BOR hearing –** you can arrange for a representative to appear on your behalf. Attach a completed Agent Authorization form to your completed objection form.
4. **If you are sick or disabled –** the BOR can hear your testimony by telephone if you present a letter from a physician, surgeon or osteopath confirming the condition
5. **Starting in 2015 –** state law allows the BOR to accept sworn written statements or testimony by telephone from property owners. The BOR determines whether it will accept information in writing or over the phone. Contact the municipal clerk to determine if the BOR will accept these forms of information.

G. Evidence to present to the BOR

1. Value estimate

Under state law (sec. 70.47(7)(ae), Wis. Stats.), if you are appealing an assessment, you must provide the BOR (in writing) with a value estimate of the land and all improvements, and specify the information you used to arrive at that estimate. The proceedings are recorded by a stenographer or a recording device. Evidence is presented through sworn 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 record. Be sure to read written evidence into the record, or attach it to the Objection Form for Real Property Assessment.

2. Evidence

- At the BOR hearing, you should present all the information you believe affects your property's value
- BOR allows time for both the property owner and assessor to present information. During and after your presentation, BOR members may ask questions to ensure the evidence and record are understandable.
- **Note:** If you disagree with the BOR's decision and appeal the decision to the circuit court, you cannot introduce new evidence to the court. The court will make its decision based on the record at the BOR.

3. Market value

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 affecting the sales price (ex: sales between relatives are typically not arm's-length sales)
- Buyer and seller are typically motivated
- Both parties are well informed or well advised, and are acting in what they consider their own best interests
- Reasonable time is allowed for exposure in the open market

- Payment is made in terms of cash in U.S. dollars or in terms of comparable financial arrangements
- 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

a. Comparable property – recent arm's length

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.
- **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 your home's market value
- Assessor should be able to tell you what comparable sales they used to determine the market value of your property

b. No recent arm's-length 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.
- Property owner may have witnesses or experts provide sworn testimony on his/her behalf. Witnesses and experts must be prepared to provide documentation of their testimony.
- After you present your evidence and answer any questions, it is the assessor's turn to present evidence. The assessor presents evidence to support the assessment and answers questions from BOR members. You will also have an opportunity to ask the assessor questions.

H. Witnesses/assessor

- Property owner may have witnesses or experts provide sworn testimony on his/her behalf
- Witnesses and experts must be prepared to provide documentation of their testimony
- After you present your evidence and answer any questions, it is the assessor's turn to present evidence. The assessor presents evidence to support the assessment and answers questions from BOR members. You will also have an opportunity to ask the assessor questions.

I. BOR decision

- After the BOR hears all 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 when the BOR is open.
- Decisions are made with a roll call vote by a simple BOR majority
- Before adjourning, the clerk must provide you with written notice of the decision. The notice:
  - » May be given to you (if you are present) or mailed to you, return receipt required
  - » Includes your rights to appeal the BOR's decision
- Contact the BOR clerk if you do not receive a notice after the final adjournment of the BOR. **Note:** A sample Notice of Board of Review Determination is at the end of this guide.

VI. Board of Assessors (BOA)

A. Cities with a BOA

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.

- **Only first class cities** (Milwaukee) – are required to have a BOA
- **Second class cities –** may decide to provide for a BOA

B. BOA information

- BOA consists of members of the assessor's staff
- BOA investigates assessment complaints
- BOA is an intermediate step in the appeal process created to ease the burden on the 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 are required to complete an Objection Form for Real Property Assessment to initiate a BOA review. You must answer all the questions on the form and provide all the information relating to the property's value, including: purchase price of your property, your opinion of market value, and the basis for your opinion.
- 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 appear at the BOR. As previously stated, you must complete a Board of Review Objection Form before appearing at the BOR.
- If your municipality does not have a BOA and you feel your assessment is incorrect, your formal appeal begins with the BOR

VII. Appeal of BOR Determination

Two ways to appeal a BOR determination:

1. Appeal to the circuit court under state law (sec. 70.47(13), Wis. Stats.)
2. Appeal to DOR:
   - Individual assessments are appealed under sec. 70.85, Wis. Stats.
   - Group appeals are made under sec. 70.75, Wis. Stats.

1. Circuit Court

One method of appealing a BOR decision is to circuit court by an action for certiorari. Certiorari is the name given to certain appellate proceedings for reexamination of actions of an administrative body such as the BOR or DOR. . It requires filing documents prescribed by the circuit court and payment of a filing fee ($129.50). The circuit court reviews the BOR record. There is no trial for this appeal to circuit court. There may not even be a hearing. The circuit court solely reviews the BOR record. No new evidence may be introduced. It is important to present all evidence at the BOR hearing.

An appeal must be filed with Circuit Court within 90 days after receipt of the determination notice (decision) from the BOR. The appeal should clearly state the improper action of the BOR.

Example: The BOR failed to consider the recent arm's-length sale of your property.

There are several limits on the circuit court's review of the BOR. First, the circuit court must presume rightful action by the BOR. The valuation placed on the property is presumed correct and binding on the BOR in the absence of

evidence showing it to be incorrect. Second, the BOR's determination will be upheld if there is any substantial basis for it. Third, if the taxpayer pursues certiorari review, the circuit court's review is limited solely to review of the BOR record. The circuit court cannot conduct its own factual inquiry or admit any new evidence. On certiorari review, the circuit court can consider "(1) whether the BOR's acted within its jurisdiction; (2) whether the BOR acted according to law; (3) whether the BOR's action was arbitrary, oppressive or unreasonable, representing its will rather than its judgment; and (4) whether the evidence was such that the BOR might reasonably make the order or determination in question." (see *Waste Management of Wisconsin Inc. v. Kenosha County Board of Review,* 184 Wis. 2d 541 (1994))

If the circuit court determines that the BOR made an error, it may remand the decision to the BOR and retain jurisdiction until the court's orders are followed.

2. Wisconsin Department of Revenue (DOR)

An appeal to DOR under state law (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 BOR.

a. When appealing a BOR decision under state law (sec. 70.85, Wis. Stats.):

- DOR must receive a written complaint (letter) 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 state law (sec. 70.47(12), Wis. Stats.).
- This appeal process requires a non-refundable $100 filing fee
- It is not available for properties with a fair market value over $1 million or properties located in first class cities (Milwaukee)
- 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.

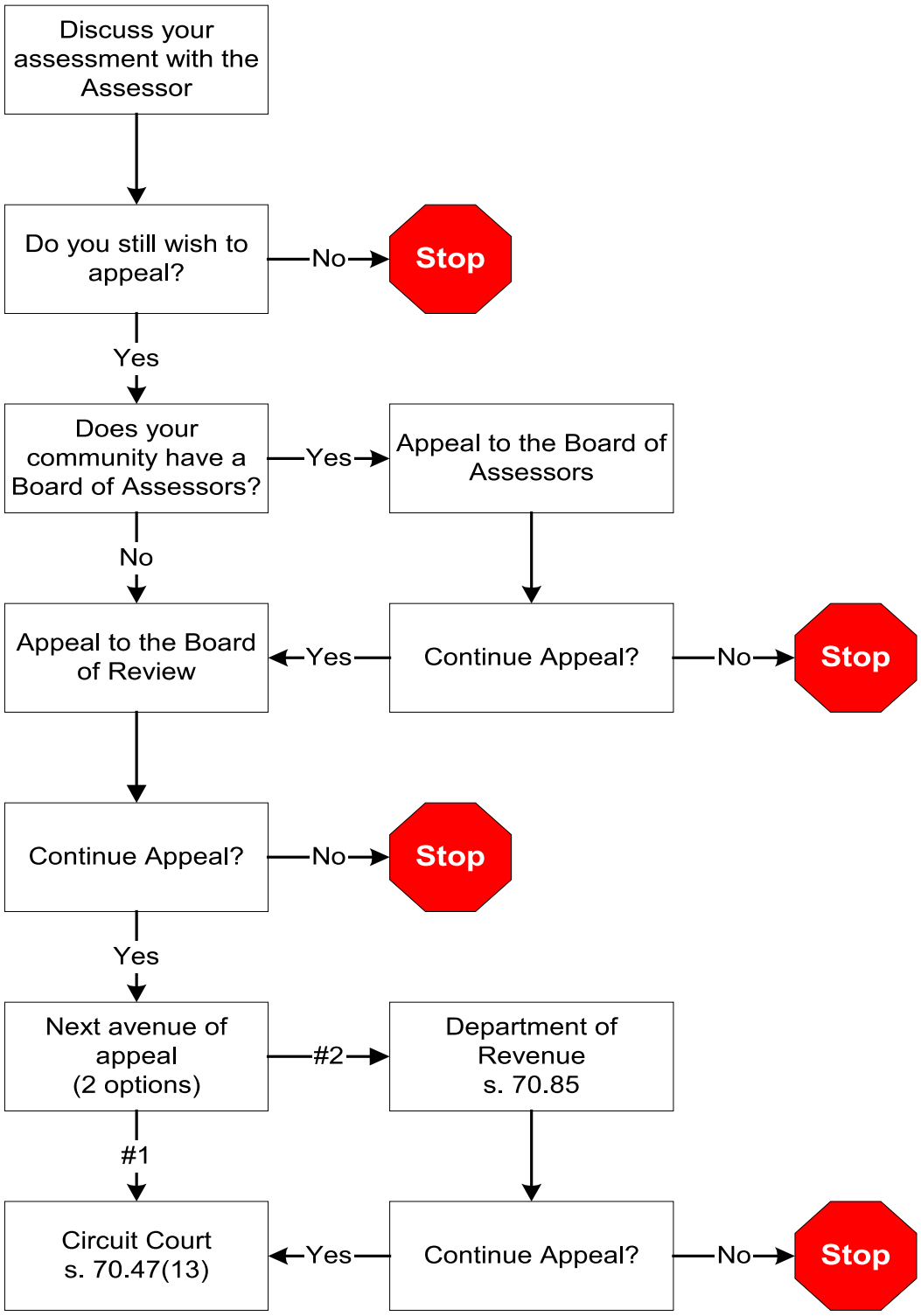
b. Submit complaint letter to DOR:

- State that letter is an appeal to DOR under state law (sec. 70.85, Wis. Stats.)
- Include: name of the county and municipality (township, village, city) where the property is located
- Include: your name, mailing address and phone number
- $100 filing fee – make check payable to the "Wisconsin Department of Revenue"
- Send to the appropriate DOR Equalization Bureau District Office

c. DOR appeal information:

- Both real and personal property may be appealed under this section
- **10 Percent threshold –** DOR will not change an assessment determined to be within ten percent of the general assessment level of all other property in the municipality
- DOR will hold an informal conference with the property owner and the assessor where each may present evidence:
  - » If DOR feels adequate evidence was presented during the conference, it will make a decision
  - » If DOR does not feel it has adequate evidence, DOR will investigate the appeal. Once the investigation is completed, DOR will make a decision.
- 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.
- DOR's decision may be appealed by an action for certiorari in the Circuit Court of the county where the property is located

d. Flowchart of the Assessment Appeal Process



VIII. Reassessment

Reassessment under sec. 70.75, Wis. Stats.

Under state law (sec. 70.75, Wis. Stats.), (except in cities of the first class (Milwaukee)), the owners of at least 5 percent of the assessed value of all property in the municipality may submit a written petition to DOR for a reassessment of the municipality. The petition's basis must be that the municipality's property assessment 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 Bureau District Supervisor.

Reassessment details

For a reassessment, the assessment roll in question would be completely redone. The property owners did not have to appear at the BOR to petition for a reassessment.

DOR holds a public hearing once a petition is verified to contain at least 5 percent of the assessed value of all property in the municipality. The public hearing provides property owners and municipal officials an opportunity to present evidence for or against a reassessment.

DOR then conducts an investigation of the assessment and can do one of the following:

- Order a reassessment
- Order special supervision of succeeding assessments,
- Deny the petition
- Dismiss the petition

All costs incurred by DOR are charged back to the municipality.

IX. Tax Appeals

Municipality

1. Excessive assessment claim, state law (sec. 74.37, Wis. Stats.)

- Under state law (sec. 74.37, Wis. Stats.), you can file a claim to recover the amount of general property tax imposed because the assessment of the property was excessive.
- To file a claim on excessive assessment, you must first appeal to the BOR and have not appealed the Board's decision to Circuit Court or to the Department of Revenue (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.

Claim on excessive assessment must include all 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
- Be served to the municipal clerk

A claim on excessive assessment cannot be filed if the BOR's determination was appealed to DOR or to Circuit Court. No claim may be made unless the tax is timely paid.

2. Unlawful tax, sec. 74.35, Wis. Stats.

The taxpayer does not need to appear at the BOR to appeal. State law (sec. 74.35, Wis. Stats.), provides for the recovery of unlawful taxes when one or more of the following errors are made:

- Clerical error made in the property's description or in the tax calculation
- Assessment included real property improvements that did not exist on the assessment date (January 1)
- Property was exempt from taxation
- Property was not located in the municipality
- Double assessment was made
- Arithmetic, transpositional or similar error occurred

Note: An "unlawful tax" does not include judgment questions about the valuation. Valuation issues must be addressed through the BOR appeal process.

Claim for recovery of unlawful taxes must include all 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
- 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 the tax is payable. No claim may be made unless the tax, or any authorized payment of the tax, is timely paid.

3. Denial of a claim under sec. 74.35 or sec. 74.37, Wis. Stats.

Under state law (sec. 74.35 or 74.37, Wis. Stats.), you cannot claim excessive assessment unless the tax is timely paid. Claims under sec. 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 municipality must notify you by certified or registered mail within 90 days after the claim is filed. You may appeal the decision to the Circuit Court within 90 days after receiving the denial. If the municipality does not act on the claim within 90 days, you have 90 days to appeal to the Circuit Court. If the municipality allows a claim under sec. 74.35 or 74.37, Wis. Stats., it must pay the claim within 90 days after the claim is allowed.

X. Statutory References

The following are the references to the appeals procedures contained in state law. Current statutes are located at: legis.state.wi.us/rsb/statutes.html.

Municipal Assessor

- **State law (sec. 70.365, Wis. Stats.) –** requires the assessor to provide the real property owner a Notice of Changed Assessment at least 15 days (30 days in revaluation years) before the BOR
- **Sec. 70.45, Wis. Stats. –** details the notice requirements and time period the assessment roll must be open for public inspection before the BOR

Board of Assessors (BOA) – State law (sec. 70.07 and 70.075, Wis. Stats.) – details the members, organization and procedures of the BOA.

Board of Review (BOR) – State law (sec. 70.46 and 70.47, Wis. Stats.) – details the members, organization and procedures of the BOR.

Circuit Court

- **State law (sec. 70.47(13), Wis. Stats.) –** (Certiorari) provides for the property owner to appeal the BOR's decision to the Circuit Court
- **Sec. 70.85(4)(c), Wis. Stats. –** provides for the property owner to appeal DOR's 70.85 decision to the Circuit Court

Wisconsin Department of Revenue

- **State law (sec. 70.75, Wis. Stats.) –** provides for property owners to appeal the assessment of the entire municipality to DOR
- **Sec. 70.85. Wis. Stats. –** provides for the property owner to appeal an individual assessment to DOR

Municipality

- **State law (sec. 74.35, Wis. Stats.) –** provides for the property owner to appeal an unlawful tax to the municipality
- **Sec. 74.37, Wis. Stats. –** provides for the property owner to appeal an excessive assessment to the municipality

XI. 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 – 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 applies 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 definition on next page, for fairness between municipalities).

Assessor – 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 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 DOR. DOR 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 DOR.

Board of Assessors (BOA) – 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 (BOR) – 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 sworn evidence.

Certiorari – judicial review by the Circuit Court of an allegedly illegal or erroneous assessment. The Court reviews only the written record of the BOR proceedings. New evidence cannot be introduced.

Circuit court – first level of appeal of the court system. Usually located in each county, the Circuit Court hears appeals of the BOR, DOR or municipality decisions.

Comparable property – property that is similar to your property including: location, style, age, size and other physical features, depending on specific market preferences.

Equalized value – estimated value of all taxable real and personal property in each taxation district, by class, as of January 1 and certified by DOR 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 percent of their full (fair market) value.

Excessive assessment – an appeal to the municipality under state law (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 – most probable price a property should bring in a competitive and open market under the following conditions:

- Buyer and seller are typically motivated
- Both parties are well informed or well advised, and acting in what they consider their own best interests
- Reasonable time is allowed for exposure in the open market
- Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto
- 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 – form you complete prior to BOR. If you do not answer all of the questions, the BOR may refuse to act on your appeal.

Open book – period the assessment roll is open for public inspection prior to BOR.

Real property – under most circumstances, real property includes the land, all buildings and improvements on it, and all fixtures, rights and privileges relating to it.

Re-assessment – 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 – 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 state law (sec. 70.055, Wis. Stats.), where expert help can be hired to work with the assessor in revaluing the district.

Unlawful tax – appeal to the municipality under state law (sec. 74.35, Wis. Stats.), claiming a tax is unlawful because a clerical error was made in the property's description or calculation of the tax, the assessment included improvements which did not exist on the assessment date, the property was exempt from taxation, the property was not located in the municipality, a double assessment was made, or an arithmetic transposition or similar error occurred.

XII. Contact Information

For more information contact the Equalization Bureau District Office in your area.

XIII. Form Examples

Notice of Board of Review Determination

Under state law (sec. 70.47(12), Wis. Stats.), your property assessment for the current year 20____ as finalized by the Board of Review (BOR) is listed below.

Property owner

General information

Date issued - -
Parcel no.
Address
Legal description

☐ Town ☐ Village ☐ City

Municipality _____

Assessment information

20___ Original Assessment		20___ Final Assessment *(determined by BOR)*	
Land	$	Land	$
Improvements	$	Improvements	$
Personal property	$	Personal property	$
Personal property	$	Personal property	$
Personal property	$	Personal property	$
Total personal property	$	Total personal property	$
Total all property	$	Total all property	$

Appeal information

If you are not satisfied with the BOR's decision, there are appeal options available. **Note:** Each appeal option has filing requirements. For more information on the appeal process, review the Property Assessment Appeal Guide. Visit revenue.wi.gov and search keyword "Assessment Appeal."

Appeal to:

Department of Revenue (DOR) – must file within 20 days after receipt of the BOR's determination notice or within 30 days after the date specified on the affidavit 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. (sec. 70.85, Wis. Stats.)

Circuit Court - Action for Certiorari – must file within 90 days after receiving the determination notice. The Court decides based on the written record from the BOR. You cannot submit new evidence. (sec. 70.47(13), Wis. Stats.)

Municipality - Excessive Assessment – must first appeal to the BOR and have not appealed the BOR's decision to Circuit Court or to DOR. You cannot claim an excessive assessment under sec. 74.37, Wis. Stats., unless the tax is timely paid. A claim under section 74.37 must be filed with the municipality by January 31 of the year the tax is payable.

PR-302 (R. 10-15) Wisconsin Department of Revenue

Objection to Real Property Assessment

To file an appeal on your property assessment, you must provide the Board of Review (BOR) clerk written or oral notice of your intent, under state law (sec. 70.47(7)(a), Wis. Stats.). You must also complete this entire form and submit it to your municipal clerk. To review the best evidence of property value, see the Wisconsin Department Revenue's *Property Assessment Appeal Guide for Wisconsin Real Property Owners*.

Complete all sections:

Section 1: Property Owner / Agent Information * If agent, submit written authorization with this form

Property owner name *(on changed assessment notice)*			Agent name *(if applicable)*		
Owner mailing address			Agent mailing address		
City	State	Zip	City	State	Zip
Owner phone ( ) -	Email		Owner phone ( ) -	Email	

Section 2: Assessment Information and Opinion of Value

Property address			Legal description or parcel no. *(on changed assessment notice)*
City	State	Zip	
Assessment shown on notice – **Total**			Your opinion of assessed value – **Total**

If this property contains non-market value class acreage, provide your 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		@ $ acre @ market value	

Section 3: Reason for Objection and Basis of Estimate

Reason(s) for your objection: *(Attach additional sheets if needed)*	Basis for your opinion of assessed value: *(Attach additional sheets if needed)*

Section 4: Other Property Information

A. How was this property acquired: *(check the box that applies)* ☐ Purchase ☐ Trade ☐ Gift ☐ Inheritance
Acquisition price $_____ Date ___-___-___ (mm-dd-yyyy)

B. Were there any changes made to this property (ex: improvement, remodeling, addition) since acquiring it? ..... ☐ Yes ☐ No
If Yes, describe _____
Date of changes ___-___-___ (mm-dd-yyyy) Cost of changes $_____ Does this cost include the value of all labor (including your own)? ☐ Yes ☐ No

C. During the last five years, was this property listed/offered for sale? ..... ☐ Yes ☐ No
If Yes, how long was the property listed *(provide dates)* ___-___-___ (mm-dd-yyyy) to ___-___-___ (mm-dd-yyyy)
Asking price $_____ List all offers received _____

D. Was this property appraised within the last five years? ..... ☐ Yes ☐ No
If Yes, provide: Date ___-___-___ (mm-dd-yyyy) Value _____ Purpose of appraisal _____
If this property had more than one appraisal, provide the requested information for each appraisal. _____

Section 5: BOR Hearing Information

A. If you are requesting that a BOR member(s) be removed from your hearing, provide the name(s): _____
Note: This does not apply in first or second class cities.

B. Provide a reasonable estimate of the amount of time you need at the hearing _____ minutes.

Property owner or Agent signature	Date *(mm-dd-yyyy)* ___-___-___

PA-115A (R. 10-15) Wisconsin Department of Revenue