

**Minutes of the Board of Review
Town of Lisbon Town Hall
Tuesday, June 5, 2018
6:30 P.M.**

Call 2018 Board of Review to Order. Clerk Gina Gresch called the 2018 Board of Review to order.

Roll Call. Present: Supervisors Becky Plotecher, Linda Beal, Board of Review Alternate Members Matt Gehrke and Jane Stadler, Assessor Mike Grota and Clerk Gina Gresch.

Statement of Public Notice. Clerk Gresch stated all notices met the statutory timeline for this process. The Public Notice for this meeting has been posted at the Town Hall and on the Town's website in accordance with State Statutes.

Discussion and necessary action to approve the June 13, 2017 BOR minutes.

Motion by Supervisor Plotecher to approve the June 13, 2017 Board of Review minutes. Seconded by Alternate Stadler. Motion carried, 4-0.

Select a Chairperson and Vice Chairperson.

Motion by Stadler to appoint Alternate #1 Matt Gehrke as the Board of Review Chairperson. Seconded by Supervisor Beal. Motion carried, 4-0.

Motion by Supervisor Beal to appoint Supervisor Plotecher as the Board of Review Vice Chairperson. Seconded by Stadler. Motion carried, 4-0.

Verify that a member has met the mandatory training requirements.

Clerk Gresch stated the majority of the members met the mandatory training requirements.

Receive the 2018 Assessment Roll from the Assessor.

Clerk Gresch stated the 2018 Assessment Roll had been received from the Assessor and signed with an affidavit.

Review 2018 Assessment Roll and Perform Statutory Duties.

Clerk Gresch stated all statutory duties had been performed.

Review Notices of Intent to File Objection.

Clerk Gresch stated she received one objection form for two properties on Friday, June 1, 2018 and the hearings are next on the agenda.

Hearings on Objections filed.

BOTH HEARINGS – (6:30 P.M.) - Jeff Fillinger, LSBT 0219.992 and 0219.994.007, W275N6725 Lake Five Road.

LSBT 0219.992 - Assessment as of January 1, 2018 is:

L: \$233,700
I: \$1,182,300
T: \$1,416,000

LSBT 0219.994.007 - Assessment as of January 1, 2018 is:

L: \$200,100
I: \$966,200
T: \$1,166,300

Chairman Gehrke recused himself from the discussion as his company has been involved in this assessment issue. Vice Chairman Plotecher took over chairing the hearing. Attorney Schober stated he is going to present both properties' testimony at the same time since they are related. Assessor Grota stated that is okay, however the BOR must make separate motions.

Clerk Gresch stated objections were filed in a timely manner and the property owner is present. Vice Chairman Plotecher explained the process to be followed in consideration of this case before the Board of Review. Assessor Mike Grota, N88W16573 Main Street, Menomonee Falls, property owner Jeff Fillinger, W343N6237 S. Bayview Road, Oconomowoc, and Attorney Mike Schober, 2835 South Moreland Road, were sworn in by Clerk Gresch. Vice Chairman Plotecher stated the property owner is to be aware that the Board of Review under state law is required to uphold the Assessor's valuation of the property as being correct unless you by your testimony can show the Assessor's valuation to be incorrect. In other words, the burden of proof is upon you as the taxpayer. The property owner understood. Vice Chairman Plotecher explained the process to be utilized in this hearing.

Property Owner Testimony:

Attorney Schober passed out evidence of market valuations of the original and new buildings based on the cost method analysis, which Mr. Fillinger believes has been used for 23 years to value the older buildings. Attorney Schober presented the following items as testimony:

- The newer buildings are constructed exactly the same as the older buildings.
- Morton Builders constructed the buildings and allowed Mr. Fillinger to deal directly with the concrete contractor so he could save on the 17% markup Morton would normally take.
- Mr. Fillinger submitted evidence of the construction costs to build all six buildings which totals \$1,177,192 and Assessor Grota's assessment which is significantly higher than what they were built for.
- Assessor Grota gave Mr. Fillinger a one year, 25% discount for any excess vacancies there might have been, however the discount doesn't relate to the cost base valuation, only the income based valuation.
- The insurance company's replacement cost is slightly higher than what they cost to build, in the case of a catastrophic event where the buildings would have to be re-built.
- Prior to BOR, Assessor Jim Young reduced the assessment on his personal barn building by \$56,000 because he was able to prove to the Assessor that the in-floor heat system was abandoned.
- After that value was reduced, the other values were increased to make up the difference. Nothing else changed to warrant adjusting other values.
- There are some inconsistencies in the building total square footage.

- Mr. Fillinger stated he has spoken with the Assessor about five times prior to today and the Assessor never mentioned "comps" to him until yesterday.
- Mr. Fillinger stated Mr. Grota said to him that assessing properties and buildings is an art as it is a science, in that people can draw different conclusions from the same data.

Board of Review Members asked questions of the property owner.

Supervisor Beal asked if any part of the in-ground heat system was installed. Mr. Fillinger replied yes, the plastic tube has to be installed before the concrete was poured.

Assessor questions for the property owner.

Assessor Grota asked Mr. Fillinger if he is familiar with the Hierarchy of Assessment, if he is aware assessment can change for a variety of reasons and if he provided income and expense statements requested. Mr. Fillinger responded no, he is not familiar with the hierarchy, yes, he understands assessments change and that he did not provide what Assessor Grota requested because his accountant advised him not to. Assessor Grota also did not provide to him any comparable properties.

Attorney Schober presented a second witness, which Clerk Gresch swore in. Scott Kalien of Morton Builders, W1190 American Street, Ixonia, stated he is the area manager and familiar with these contracts. He verified the dollar amounts presented by Mr. Fillinger and confirmed rebuilding costs would be essentially the same compared to two years ago. There were no further questions for this witness.

Assessor Testimony:

Assessor Grota presented the following items as testimony:

- Submitted property record cards for the subject properties, values for comparable properties and a record card for a storage unit sale for \$1,620,000 in May 2017. Attorney Schober objected to the Assessor showing comps when that was never mentioned before. Vice Chairperson Plotecher stated the Assessor will be allowed to present his testimony and can be asked questions later.
- He reviewed other comparable properties assessment values based on the income analysis and stated Mary's Custom Storage advertised rates are based on similar sized units. Comparable properties are asking for similar rental rates.
- He presented an income analysis based on average income and expenses, with a reasonable adjustment for vacancy and taxes because he didn't receive the actual numbers as requested. Analysis shows the assessment is not too high and if anything, it's too low and is very conservative.
- Assessments are calculated for all properties in the Town of Lisbon on a market modified cost approach, not an exact replica of costs, since costs vary.
- He must assess based on uniformity and equity between similar and dissimilar properties so the assessment in the end is a reasonable value.
- Wisconsin State Statute §70.32 dictates how to value real estate. Real property shall be valued in the manner specified in the manual from actual view or from the best information the assessor can obtain; at the full value which could ordinarily be obtained therefor at private sale. In determining the value, the assessor shall consider recent arm's-length sales of the property to be assessed if according to professionally acceptable appraisal practices those sales conform to recent arm's-length sales of reasonably comparable property; recent arm's-length sales of reasonably comparable property; and all factors that, according to professionally acceptable appraisal practices, affect the value of the property to be assessed.
- The statutes don't mention anything about assessing based on costs. The sale of the subject property is control, then you go to reasonable comparable property sales, then you go to income

and expense statements. Since the subject property hasn't sold, he has to rely on the comparable property sales.

Property Owner questions for the Assessor:

Attorney Schober asked the Assessor if he gave very little evidence on costs even though cost details were provided to him and if comparable properties existed, why were they not provided to the property owner. Assessor Grota stated he provided the property owner with the information he requested and answered the questions asked, which were only about costs. He provided what was asked of the property owner by him. Attorney Schober submitted a court case from 1964 establishing the cost submittal. Attorney Grota stated neither party in that specific case submitted comparable property sales. The Supreme Court never used the Hierarchy of Assessment or §70.32. Attorney Schober stated the Supreme Court has the final interpretation and their ruling is applicable law to this case.

BOR questions for the Assessor.

None.

BOR can ask questions of either party.

None.

Objector rebuttal.

Attorney Schober stated the assessment notices were received and all information the property owner requested was based on costs. Comparable values were not provided until tonight; how can the property owner prepare for the hearing? The information given has to be transparent. The Assessor provided information based on costs and the rest of the information provided is guesswork and subjective.

Assessor Grota stated the assessment before the BOR to consider has been clearly displayed. If the BOR wants to consider the 1964 court case Attorney Schober referred to, he suggests asking for an opinion from the town Attorney. That court case was for a manufacturing facility with the Department of Revenue assessment based on costs. No evidence was provided of sales or comparable values in that case. In this hearing, sales were supplied to the BOR. The conversations he and his staff had had with the property owner over a number of weeks has always been about costs. The property owner didn't want to discuss anything else. The proper way to assess this property is sales and income. He asked the BOR to sustain the assessment.

BOR to ask questions of objector or assessor.

Supervisor Beal asked the property owner if Assessor Grota asked him for income and expenses, and someone else told him that would be his federal income taxes. She also asked if he concentrated on costs and nothing else. Mr. Fillinger stated replied yes to both questions. Assessor Grota asked for Schedule E of his taxes and he is not required to do that. Supervisor Plotecher asked if the property owner read the 2018 Guide for Property Owners which explains how to prepare for this hearing. That guide explains that comparable values will be brought up by the Assessor at the hearing. Mr. Fillinger stated he did not look at the guide in preparation for the hearing.

THE RECORD IS CLOSED, NO FURTHER TESTIMONY WAS TAKEN.

BOR Deliberations.

Deliberation on LSBT 0219.992:

BOR members agreed the assessment should remain as is because there weren't any recent sales provided by the property owner. The Assessor presented evidence of property classifications and statutory requirements were met, whereas Mr. Fillinger was only looking at costs, when there are other factors involved.

Motion by Jane Stadler that exercising its judgment and discretion, pursuant to section 70.49 (9)(a), Wis. Stats., the Board of Review, by majority and roll call vote hereby determines that the Assessor's value is correct, and sustains the same as set by the assessor at \$1,416,000. BOR members agreed both parties presented good information but the burden of proof is on the property owner and that burden wasn't met. The Assessor's evidence was more compelling and his assessment should be upheld. Seconded by Supervisor Beal.

ROLL CALL VOTE:

Vice Chairman Plotecher - YES
Supervisor Beal - YES
Alternate #2 Jane Stadler - YES

Motion carried 3-0.

Deliberation on LSBT 0219.994.007:

BOR members agreed the assessment should remain as is because there weren't any recent sales provided by the property owner. The Assessor presented evidence of property classifications and statutory requirements were met, whereas Mr. Fillinger was only looking at costs, when there are other factors involved.

Motion by Supervisor Plotecher that exercising its judgment and discretion, pursuant to section 70.49 (9)(a), Wis. Stats., the Board of Review, by majority and roll call vote hereby determines that the Assessor's value is correct, and sustains the same as set by the Assessor at \$1,166,300. BOR members agreed both parties presented good information but the burden of proof is on the property owner and that burden wasn't met. The Assessor's evidence was more compelling and his assessment should be upheld. Seconded by Supervisor Beal.

ROLL CALL VOTE:

Vice Chairman Plotecher - YES
Supervisor Beal - YES
Alternate #2 Jane Stadler - YES

Motion carried 3-0.

Communications and any other business as authorized by law.

Chairman Gehrke rejoined the BOR and stated there were no other communications and other business as authorized by law at this time.

Discussion and necessary action to approve the 2018 Assessment Roll as corrected by the Assessor (if any corrections were made) and adjourn the Board of Review subject to the Clerk's satisfying the statutory duties.

Motion by Supervisor Plotecher to approve the 2018 Assessment Roll as corrected by the Assessor and adjourn the Board of Review subject to the Clerk's satisfying the statutory duties and to adjourn the June 5, 2018 Board of Review meeting at 8:36 PM. Seconded by Supervisor Beal. Motion carried, 4-0.

Respectfully submitted,

Gina C. Gresch, MMC/WCPC
Town Clerk

DRAFT