2011 BOARD OF REVIEW
VILLAGE OF PLEASANT PRAIRIE
JUNE 23, 2011
9:00 A.M.

A meeting of the Pleasant Prairie Board of Review was held on Wednesday, June 23, 2011 and called to order at 9:00 a.m. Present were Board members John Braig, John Burke, Lena Schlater, Jill Sikorski, Mark Riley, James Kennedy (Alternate) and Attorney Tom Camilli. Also present were Rocco Vita, Village Assessor; Ed Judt, Village Appraiser; and Jane Romanowski, Village Clerk.

1. CALL TO ORDER

2. ROLL CALL

3. RECEIVE THE ASSESSMENT ROLL AND SWORN STATEMENTS FROM THE CLERK

Rocco Vita:

Mr. Chair, Rocco Vita, Village Assessor present today. Before you is the 2011 Assessment Roll for the Village of Pleasant Prairie signed by myself and signed by the Board of Review Clerk, Jane Romanowski. Upon those signatures, the ability and the authority to change a value moves from the Assessor's Office to the Board of Review until the adjournment of these proceedings.

John Braig:

Thank you. I have here the Assessment Role. Does anyone care to look at it and inspect it? We have received it. Sworn statements from the Clerk?

Jane Romanowski:

That's what that was, my sworn statement saying that's the Assessment Roll.

4. DISCUSS STATUS OF ASSESSED VALUES

Rocco Vita:

Mr. Chairman, I'll keep this brief but hopefully informative and answer any questions you might have. The Assessment Roll in front of you for 2011 represents a maintenance year of value for the Village of Pleasant Prairie in that we performed the last full Village-wide revaluation effective January 1, 2010. For the most part, all the values that exist in this Assessment Roll reflects value that was determined at that time. The only changes to value were changes for record maintenance, whether people added additions to their homes or property or removed material or portions of their property or made us aware that our description was inaccurate and we needed to maybe view the property and update our description or take into account other factors that we may not have taken into account as of January 1, 2010.

John Braig:

So, in effect, there is no change in assessment values for most of the properties in the Village.

Rocco Vita:

For over 99 percent of the properties that value as of January 1, 2011 is exactly the same as it was January 1, 2010. The sales that have occurred through 2010 have given us an indication, kind of a glimpse as to what we are going to do for the revaluation in 2012. We revalue every two years. We decreased values effective 2010 and will be decreasing values again unless there is large upswing in the last half of this year effective 2012. I did have a sheet with me that detailed all the sales from my best recollection, when I look at the different neighborhood groups to get an indication of really how the assessments overall in a group of properties where in a residential environment, overall the Village's assessed values are about 5 percent high. It varies by neighborhood group. Some neighborhoods such as the rural and highway neighborhood, which is mostly on your County and State highways may be closer to 8 or 9 percent high. The moderate neighborhoods are 5 to 6 percent high. You see the condominiums are 2 ½ to 3 percent high. It varies a little bit but overall the assessments are generally more than what the properties have been selling for.

John Braig:

I'm curious. I just drove down Lakeshore Drive last week and there are an awful lot of for sale signs there. What do you see in the Carol Beach area?

Rocco Vita:

Carol Beach is pretty close to what–now Carol Beach is a large neighborhood and we have it broken into– off of Lakeshore Drive, we have it broken into four neighborhoods, actually five. Carol Beach west , there are two neighborhoods west of the tracks east of Sheridan Road, and then there are three neighborhoods east of the tracks but west of Lakeshore Drive; Carol Beach North, Carol Beach South and then there is the Carol Beach Unit 2 with the LUSA District. There also are neighborhoods on Lakeshore Drive, the west side of the road is different than the east side which is on the lakefront, and we further segregate it between north and south and whether the properties on the west side of the road have a clear view of the lake which enhances their value above those that don't. On Lakeshore Drive along the west, we are about 8 percent high based on the very few sales that have occurred. There might only be three or four sales. On the waterfront, we are really close. We actually might be a little low, but really close.

There are four waterfront sales. Two of the waterfront sales in the Village are actually in River Oaks, and two of the waterfront sales are on Lake Michigan. I can’t recall which two we’re slightly low and which two we’re slightly high on but we are close, very close. We are between one or two percent on all of them. There just isn't a lot of activity for the number of sales. I think we have one hundred and some properties, 120 properties or so on Lake Michigan but we don’t have a lot of sales evidence owing to the fact that there simply may not be a great deal of demand.

John Braig:

Looking at sales in total, how would you compare sales in the last year, total number of sales versus the hay day five or six years ago?

Rocco Vita:

There were 153 sales in 2010, and I don't recall how many sales we had last year or the year before but I'm just finishing a revaluation for the Town of Salem this year. We had our Board of Review yesterday for the Town of Randall. In the Town of Salem, we, like Pleasant Prairie, perform the revals every two years. In our 2007 reval, I had over 600, probably 610 or 606 sales to use. In the 2009 reval, I had 313 sales. I have 125 sales in the 2011 reval to value 5,000 properties. When you have fewer sales, there is more generalization occurring or taking place.

John Braig:

It is also a reflection on the economy and where things are.

Rocco Vita:

I think the people that– you know in this kind of an environment, people that have the option of selling their home, generally aren't. They are going to try to wait until the market gets better. So, the people that have a need or that have some sort of distress or some sort of compulsion are the ones that have their homes for sale. It typically would say in this market almost every home, almost every sale might have an element of distress, but you try to measure it and it is pretty easily measured by how different that sale price for that asset versus the other sale prices for that asset. If we could pick a type of home and we have five sales of that type and the sale prices may range, four of those sales might be clustered pretty typically around one point but one sale is really low. It is pretty easy to determine that for whatever reason that seller really did need to let that house go and in this market, the only way to get a house to sell very quickly is to change the price.

Lena Schlater:

We have like around 18 or 20 sales for the month and I think we might have two or three that are over $100,000. That’s just in our office, and the average price ended up going from $179,000 down to about $115,000, $119,000, Racine and Kenosha being almost the same with us, maybe $4,000 or $5,000 higher on it, and the number has come down considerably. So this year is not the way it was last year. We thought last year was bad but this year is worse.

Rocco Vita:

Now to be clear, when we say the median sale price is $179,000 versus $115,000, those are two different types of properties that are predominantly selling. We are not saying the same home that was selling for $180,000 is now selling for $115,000. You need to understand that those are different types of homes that are transacting.

Lena Schlater:

Unless it was a short sale or a bank-owned.

Rocco Vita:

Perhaps.

Lena Schlater:

Then you will see the assessed value at being $179,000 and selling for $120,000.

Rocco Vita:

Right. The bank sales have been pretty clear.

Lena Schlater:

So what did you say that the assessed values, they remain the same right in Pleasant Prairie?

Rocco Vita:

Yes, they have.

Lena Schlater:

They have remained the same and that you are about 5 percent high about what they were selling at?

Rocco Vita:

Right. Part of that is we had a great number of condominium sales and they all sold pretty close. So I think if you took the condominiums out we are like 5 or 6 percent high, 7 percent high. There were like 42 condominium sales so they are almost one third of all the sales and if those averaged at 102 percent, it is kind of mitigating everything else.

John Braig:

What about income property?

Rocco Vita:

We have not had a duplex sale. Even in the City of Kenosha as best as I can tell now by talking with their Assessor, owner-occupied duplexes have become a thing of the past. In the Town of Salem, doing this past revaluation, I had not one duplex sale to use. I have two duplex listings to give me some information but nothing in the Town of Salem in the last 2 ½ years that was a duplex that actually transacted. It is difficult.

Mark Riley:

To be clear, you are saying we are about 5 to 7 percent high. Were we right on in 2010 and now the market has dropped?

Rocco Vita:

Yes.

Mark Riley:

When you reassessed in 2010, you were right on?

Rocco Vita:

Yes.

Mark Riley:

Okay.

Lena Schlater:

If someone has an appraisal, today's appraisal, and they are 10 percent lower than what their assessed value is, and it has been on the market so they tested it on the market, haven't gotten it, went out and got an appraisal and the appraisal was not based on a refi, it was an actually appraisal, in situations like that, how are we going to look at it?

Rocco Vita:

Well, the way we look at it, is we don't change the value because that value was set at the 2010 level. What has changed is the economics of the housing market. Now I have not measured the change in market from January 1, 2011 until today because the Department of Revenue gives the sales after the Board of Review. So I haven't measured the market in the last six months, so the numbers I gave you are merely a decline in value over 2010. From a uniformity perspective, and understanding that the Constitution requires us to retain uniformity, for property tax purposes, our purpose is not to try to predict what a property sells for but to take sales evidence of the past, identify valuation benchmarks or correlation analysis to identify valuation benchmarks and apply that uniformly and systemically to properties within a neighborhood or residential environment. We can be assured that then the values in that neighborhood group or that neighborhood are uniform, and the taxes that those people are paying are fair and equitable among and with each other.

If someone comes to us and says the home description is fine but you know the market has gone down in the last year and a half, and we say you are right it has gone down and we'll change the value to reflect that, we have made an economic change for one person and given him a tax benefit, but we haven't done it for his neighbor. And if an economic impact affects one property, it certainly affects the neighboring property so we should adjust the neighbor, but that neighbor has a neighbor and we should adjust that neighbor. And once we begin adjusting all the neighbors, that is a reval and we have not done a reval.

So from our perspective, we are telling property owners, you are right. Our assessments are high. We are all assessed highly. The thing of it is that our coefficient of dispersion numbers are very tight meaning that almost everybody is assessed pretty similarly at that 5 to7 percent high so we are all in the same boat, so to speak, so you are not being harmed. I think if we had a group of properties that a neighborhood that we really missed that were selling for 30 or 40 percent less than the assessed value and it is easy to see, that is something we could probably make a correction for to bring them in line with everybody else being that 5 to 8 percent but that's a whole neighborhood then that we would have to adjust, not just one property.

John Braig:

And, of course, the other point is these assessments are based on last year.

John Burke:

And all these appellants understand that.

Ed Judt:

No they don’t.

Rocco Vita:

Well, we tried to explain it to them just like I did to you so that they understand and some actually do. This isn't just my opinion. It is my opinion and it is my obligation to strive for uniformity and try to help the people understand that that is my mission. Uniformity for property tax purposes not trying to predict what a property will sell for. But there are court cases that say when an Assessor, like Noah's Ark back against Lake Delton, there was an amusement park that sold for more than the assessed value, and the community might have been at 90 or 85 percent of value. So what the Assessor did is he took the sale price, this gives me my best indication of value. The statutes say I have to use it so I'll take the sale price and we will just say $10 million, I don't recall, but $10 million, and if they were at 90 percent, he would put them at 90 percent or $9 million. Well they appealed because the Assessor changed his property but nobody else's for an economic reason. And the Supreme Court sided with the property owner saying that the uniformity factor of the Constitution was very important for property taxes. The uniformity of taxation is that you cannot change one person for an economic reason unless you change them all for economic reasons.

Now we can find differences. We try our darndest when people call to see if our description is accurate, if they can provide us something we are not taking into account that would affect their value, restrictions, encumbrances, a lower physical condition. We send them the property record card so they can look through it and make sure that we have not made a data entry error, a typo, something of that nature. Those things we have an obligation to change and we change them all the time, not that we have a lot of issues, but we make those kinds of changes relatively regularly in all our jurisdictions. It is the economic ones in this market when we are going down that we are not making a change. Remember, when the market is going up, we aren't making changes every year for those properties that sell, we are not making changes. When the market was going up and their properties were 10 percent below what they were selling for, we weren't increasing the property because it sold for 15 percent or sold for 10 percent more. We waited until the municipality said okay now is the time that you are going to log those values related to the economics to all the properties at one time in a uniform and a systemic and a comprehensive manner.

Lena Schlater:

These hearings that are coming forward today, have you sat with every one of these or has the Assessor's Office sat with every one of them and made some adjustments before they got here?

Rocco Vita:

I think Ed could answer that.

Ed Judt:

What was the last part of your question?

Lena Schlater:

Any one of these that are on–

Ed Judt:

We have had conversations with everybody on your agenda.

Lena Schlater:

Okay.

Mark Riley:

Have you made any adjustments to any of them?

Ed Judt:

Actually we have, to Humphreys and to Nicholson.

John Burke:

So you have already made the adjustments and they’re still on–

Ed Judt:

We have already made an adjustment based on in both cases–in one case based on the conversation and in the other case, based on an inspection of the property.

Lena Schlater:

The remaining ones, Ed, you have not made any changes to that?

Ed Judt:

Made no change to the value, no.

Jill Sikorski:

And they all have had an explanation of the economic scenarios are part of the reval, that is when that all gets–

Ed Judt:

Right. In fact, the first two hearings this morning involve folks who have had recent appraisals done that suggest a value that is lower than our current assessment. I have had numerous people like that who I have explained all this to, the explanation you just heard, and they will say to me yeah, I understand that but I have had an appraisal done, I took the time to call you, I am going to make the effort and go to the Board of Review so I deserve a change. I don’t care about anyone else. You are going to get a little of that today.

Mark Riley:

I know one of these is a lake property. Lake properties went up so fast, and I understand your logic that things are down maybe 7 to 10 percent now. Is there a possibility that lake properties went down 20 percent and they are being unfairly–

Ed Judt:

Lake properties went down more than any other property in the last two revals. They have fallen dramatically. Let me take a look.

Mark Riley:

Just taking your word for it, Rocco, but now there's been another year and a half and they do have these appraisals, and maybe lake properties took a 20 percent drop, and the rest of the properties took a 7 percent drop. Are the lake property people now paying an unfair tax burden or assessment which turns into a tax burden?

Rocco Vita:

No, actually based on the two lakefront sales on Lake Michigan they're very close to our assessed value. Now, remember, lakefront are generally not very homogenous type properties. There's a great mixture. So it's hard to do a lot of correlation. But we reduced land values dramatically in the last reval. We reduced land values dramatically the last to revaluations. They've all received–in fact in the 2008 revaluation the lakefront properties received rather dramatic tax decreases. Because we might have decreased everybody about 2 percent or 3 percent, they were reduced close to 20 percent. Then in the last year everybody was reduced 12 or 13 (percent), and again they were reduced at upper teens, almost 20 percent. So in the last two revals they've lost–if I were to see my history on one of these then it would give us a better indication really of what the declines were over time.

Mark Riley:

A summary would be when you go to reassess them in '12 their properties are probably going to go down 10 percent like all the rest of the city.

Rocco Vita:

Well, we still have the other half of the year to go. I think right now the lakefront is–

Mark Riley:

The percentage is going to be pretty level across the board that values will drop on an even percentage whether they're lake or inland.

Rocco Vita:

There are going to be those differences in the neighborhood groups. But there's not going to be a dramatic difference from neighborhood group to neighborhood group unless–now, what we saw last year in Twin Lakes, and that's what's flowing through to the first of this year, their market held steady on the lake through the summertime but towards the end–and there was a tremendous amount of properties for sale. No demand. The demand had dried up in the last few years, and they had held steady for a number of years. Their market in the fourth quarter last year just fell through the floor, and it hasn't gone back this year. So we saw there that the people that really couldn't hold out anymore had to sell and they sold. They all sold for a great deal less. I don't know how long people on the lakefront here can hold on. I don't know if the people that really are distressed have let those properties go in the last few years, and that's what really predicated those steep declines. I think if you look at the values now compared to four years ago, the lakefront valued at 40 percent less than what they were.

Mark Riley:

Then the other category I guess is the million dollar homes don't seem to be selling, and are they going to drop dramatically more than the $200,000 homes? A $200,000 home takes a 7 percent hit, are these million dollars homes going to take a 20 percent hit?

Rocco Vita:

Again, the biggest decline in value this past reval was the million dollar homes was Tobin Woods and Meadowdale. They took huge hits. In fact, we had homes that may have sold for $1.1 million dollars and now sell again for $850,000 or $800,000. That's in the analysis. I don't get a benefit for trying not to acknowledge. It's easier for me to let go of the value, let the sales take it where it gets because it makes my job a tremendous amount easier.

Mark Riley:

Well, then is it fair to say that those particular homes are going to be in an unfair position for this off year?

Lena Schlater:

Yeah, they are.

Rocco Vita:

Because we've already made adjustments to their values in the past year. We've made tremendous adjustments to their value. They didn't react the same as everybody else the year before, maybe they won't react the same now. But the thing is if I change one value in the neighborhood I need to change them all, and then I'd need to change the next neighborhood.

Mark Riley:

Well, there's not that many million dollar homes. I guess I'm looking for is there any special category that we need to consider today, or are we going to reject all these? I mean is there any reason we would look at any of these?

Rocco Vita:

I think it really comes down to the evidence they can provide as to the value of the property as of January 1, 2010.

Mark Riley:

So if they don't have an appraisal from back in 2010 we really have no justification to alter any of these?

Rocco Vita:

Well, I don't know, I think Tom needs to weigh in here, because I really shouldn't be the one giving the Board of Review legal advice.

Mark Riley:

I'd rather get educated before we get into this.

Jill Sikorski:

It's economics.

Rocco Vita:

We're doing a reval in '12, right.

John Braig:

But not in the present.

Rocco Vita:

We did not do one in '11.

John Braig:

You know another thing that hasn't come up in this discussion but is a factor some of the homes or the sales that you might be reflecting on may be distressed not only economically but physically. I'm familiar with a number of properties here and in other states and people literally trashed the house when they realized there's nothing left in it for them. And that could reflect a high percentage of the reduction in its market value.

Rocco Vita:

It can, it can. With homes that sell for a great deal less we try to field those sales and determine what the reasonings are and if it's because of a change of physical description, we try to then describe the home correctly. That does kind of give us a good indication of why the value dropped.

John Braig:

You're saying you do get in some of these homes that might be physically distressed?

Rocco Vita:

Sure. A lot of times they'll call and say, hey, I just bought this home for X and you have it assessed a great deal more. And we go out and we review the property with the property owner, especially if it was one of those situations. The thing of it is that description at the time is that description at the time. A person buys that property not with the intention of keeping it in poor condition. They then take out a building permit and we go back the next year and see what it's like then.

Lena Schlater:

But, Rocco, if somebody buys a house and it's assessed at $750,000 and they paid $530,000 for it, and they come in and say, hey, look, this is the best evidence of what the property is worth. I just paid $530,000 for it. Are you going to reduce it to $530,000? No, until the reval comes up, right?

Rocco Vita:

Right, we'll go over the description.

Lena Schlater:

Unless there's an error in the land.

Rocco Vita:

And maybe the seller–it all depends on the circumstances of the seller. Did they pay $530,000–what is the reason that it sold for $530,000? Did all the other properties in the subdivision sell at the same disparate relationship with the assessed value or was this the only one?

Lena Schlater:

But the majority of them is because they can't afford the house anymore for one reason or another, and the market being in the condition it's in that was all they were able to get from a buyer. Buyers know that going in.

Rocco Vita:

So let's take Meadowdale Estates as an example because we don't have any cases there. So we have something that's assessed for $750,000 and it sells for $530,000. That's a certain relationship. We take $530,000 divided by $750,000 and that's 30 percent less than the assessed value. We have a number of sales in Meadowdale Estates. Do all of them, are all of them selling at 30 percent less, or are all of them selling at 10 percent less or close to the assessment or whatever and this one sold at 30 percent less?

Lena Schlater:

Yeah, because it was at arm's length. He was in financial whatever.

Rocco Vita:

Whatever. So that's the reason. Now, from a uniformity perspective should I give this property owner a tax break because the seller was in distress? I mean the new property owner is not in distress. And even if the seller was in distress, distress is not a reason to provide property tax relief. You and I both pay taxes based on the value of our property, not on our ability to pay.

John Braig:

There's another consideration. You look at selling prices and transactions. In some instances there's hidden factors. I think you're familiar with one in Beverly Woods. A property, a beautiful piece of land and a very poor house sold for $25,000. In that same transaction or related to it, a man purchased a three bedroom ranch home. It must be on land contract. I've never seen the selling price appear in the weekly listings in the paper. But without a doubt because one was income property and one was a single family residence, the total transaction probably reflected the proper values of the property. But the greatest purchase price was attributed to the single family home, and the lowest purchase price was attributed to income property. There's tax benefits for the parties involve.

Rocco Vita:

You're saying there was a transaction for two properties. They came up with what the value of the two properties were and then allocated, not arbitrary, but a purposeful portion to one and a different portion to the other. That can happen. But the things is we're–

John Braig:

The point is you are not aware of other considerations that may actually be part of the transaction.

Rocco Vita:

We get our information from the property transfer paperwork that's filed with the Department of Revenue. It's a very legal document. There are laws governing what information is put on there and we have to assume that the information the property owners or their agents put on there is accurate and truthful. The fact is that some people have reasons for altering or making changes, it happens. I guess you can expect it to happen. But I think for the most part is we operate on the assumption that what's stated on there as the fair market value is the value for the property because that's what the law requests them to do. So, yeah, you're right, that might happen.

Tom Camilli:

Mr. Chairman, if I may just to respond very briefly to Mark's question earlier which I think does really go to the statutory methodology that the Board must employ, and as the Board is aware, it's proceeding under the necessary presumption that the Assessor's valuation is correct. The objector must put forth, according to statute, a sufficient showing to overcome the presumption in favor of the Assessor. So as to what's showing on the part of an objector is sufficient obviously the Board has that discretion to make that determination as to whether the presumption in favor of the Assessor has been overcome. So, again, I just wanted to clarify, and obviously the Board is well aware of the basic methodology employed. But we're starting with a presumption in favor of the Assessor pending a sufficient showing by the objector that the Assessor is incorrect now.

Case law also holds that in the event that there is a sufficient showing on the part of the objector to overcome the presumption in favor of the Assessor's valuation, the Board may still affirm the Assessor's valuation if there is credible evidence in the record to support the Assessor's valuation. So obviously there is a lot of discretion on the part of the Board. However, it must not operate under that presumption in favor of the Assessor's valuation.

Mark Riley:

But to take that one step further, we have to assume that that assessment to be correct as of January 1, 2010 and not today.

Tom Camilli:

Correct.

Mark Riley:

So if they're going to throw an appraisal in front of us it's got to be as of 2010, not today, that's what I'm hearing.

Tom Camilli:

I would believe that to be correct.

Mark Riley:

Anybody that brings in a current appraisal does not have as much bearing on it.

Tom Camilli:

You need to compare apples with apples.

Mark Riley:

Okay, with that point out of the way, the next point I still want to make, and I want clarification on it, is the fact that, and I understand that you're trying to work with a level playing field, so if everybody is 5 percent over their assessment everybody is paying a fair amount of tax, right, or is fairly assessed where the taxes come from. Can there be small groups out there who are 20 percent over their assessment, and do we need to give that any consideration even if they can't prove it back in 2010 but they can prove it today? Because they would be unfairly paying more taxes than the group that's 5 percent over. Now, I understand if you do it for one you've got to do it for all of them, but the other ones aren't here asking for it. So if we're not going to give it to anybody what's the Appeals Board for?

If I'm hearing what I think I'm hearing, really unless they can bring evidence from 2010 we don't really need to listen to any of these hardly.

John Braig:

That's why we're here. It's judgment.

Mark Riley:

. . . inaccurate. Am I hearing that correct, that there are no special cases or special groups out there that maybe they're 20 or 30 percent overassessed in today's market while the rest of the community is only 6 or 5.

John Braig:

That kind of implies that the 2010 assessment was–

Mark Riley:

No, not necessarily. You can have certain groups. The million dollar homes just fell off the face of the earth. I mean nobody is paying that anymore. You're still moving $200,000 homes. If you sold 20 homes they probably were all under $300,000.

Lena Schlater:

They were mostly under $100,000.

Mark Riley:

So case in point. But people that were asking $1.6 million for their home are now hoping to get $800,000. It's very different, and that all took place in the last year or two. It took place incrementally. The biggest drops are coming off late. So in reality they're going to pay more than their share of taxes this year.

Rocco Vita:

I will tell you that in 2009 the highest valued neighborhood group was Tobin Woods at $1,008,000. In 2010 their average assessed value was $740,000. They took a 26.5 percent decline based on the sales evidence. So their average value in there now is in the mid $700,000. Probably from mid $600,000 to mid $800,000 or something in that nature. I'm not sure.

Mark Riley:

Which is the point, Rocco? There was a period where they paid more than their fair share of tax.

Rocco Vita:

No, there wasn't, because their taxes were predicated on their sale prices at the time.

Mark Riley:

I'm still working with percentages, not the total value of the house–

Rocco Vita:

We're doing revaluations every two years.

Mark Riley:

I understand, but if the average is 7 percent and you have one group who drops 25 percent–

Rocco Vita:

This was last time when the average decline was in the last reval not this reval. In the last reval the average decline was 12.5 percent. They dropped 26. Now, that happened in a short period of time, because remember this is 2009/2010 values. So those sales that occurred in–we did a reval in 2008, so the 2009 and 2008 sales went into that 2010 revaluation, so it's two years of sales they dropped 26 percent.

John Braig:

Then there's the argument we're talking decrease, but if it was an increase we wouldn't have made a change.

Rocco Vita:

I can tell you this, that if we did increase those neighborhood groups when they come back in the interim without increasing everybody else we'd be dragged into court and the court would tell us we couldn't do that because we haven't changed everybody else for economic reasons.

Ed Judt:

Just to embellish a bit is this notion of an average of 5 percent or 7 percent remember that we're dealing with, from an economic standpoint we're dealing with a horribly imperfect market. You've got neighborhoods that are at 5 percent. You've got neighborhoods at 7 percent. You could have neighborhoods that perhaps have assessments that are too low right now. So we're talking about an average. Certainly you're going to have groups, absolutely.

Mark Riley:

I understand and if it's within a few percent you're splitting hairs. But I guess I'm asking the question is there any reason that we would change somebody's assessment today. I'm trying to get educated before these guys come in.

Ed Judt:

If you're asking me–

Mark Riley:

No, I know your bias. I know you guys historically are extremely accurate. I would guess I'm really asking Tom is there any reason this Board is going to change an assessment other than somebody brings in–

Tom Camilli:

I think it depends upon what evidence is presented by the objector. I mean the objector's burden is to bring forth a quote, "a sufficient showing," close quote, to overcome the presumption in favor of the Assessor and I do agree with you that that presumption in favor of the Assessor is a pretty strong presumption.

Lena Schlater:

It's difficult.

Jill Sikorski:

. . . as of January or the close thereto 2010 for inaccurate information the Assessor's office used to create the assessment.

Tom Camilli:

I think the objector would need to make a sufficient showing that the valuation or the methodology or some process that was used by the Assessor to arrive at the January 1, 2010 value was incorrect. It's a difficult burden to meet.

Mark Riley:

It’s more difficult than . . . here. If they brought this assessment in in 2010 it would be a no brainer. That’s what makes it difficult.

Rocco Vita:

I think one thing to keep in mind is this is the method of appeal that’s offered to all property owners, all citizens, non citizens, all property owners in the State of Wisconsin. It’s there for a reason. You might feel comfortable with out capability, and certainly I and my staff strive to do the best we possibly can. Because it’s easier for us if we do a better job than not. And when you look at the State of Wisconsin map, and you see these yellow dots where Kenosha is and Appleton is and Madison is and Wausau is and Janesville is, you can tell those are places that have in-house assessment offices, they have some staff, they have some people. But in between those dots is a lot of green. Those are the places where you have a contract assessor. You may not have the tools or be afforded the resources to do the kind of work that your local assessors that have staffs do. This process ensures that a correct process is applied to everybody throughout the State. So maybe you’re going to see more adjustments in the rural areas where there’s a contract assessor that’s only in the town for one week out of the year versus an urban assessor who is here all the time.

Mark Riley:

My question to myself is why did these guys not come in in 2010? Why are they coming in in the off year? And my answer to myself is probably because things have gone down and they want to take advantage of it. And really by the rules that we’re dealing with they can’t.

Rocco Vita:

I think most often they’ve got a piece of paper from a financing institution indicating that whenever that was their value is a lot different. They might have trusted us in the past. They might have felt bad that the value went down. Now they’re really angry the value has gone down and they want to vent and rightly so. I can understand that.

Mark Riley:

And the rules in front of us are they’re being fairly assessed just like everybody else.

John Braig:

Just be glad we’re not in Illinois.

Rocco Vita:

Maybe someone will bring something to you today that they have not told us about that impacts their value.

5. REVIEW NOTICES OF INTENT TO FILE OBJECTION

Jane Romanowski:

Mr. Chairman, we have seven scheduled hearings today as you can see from the agenda and we'll start those shortly. I can tell you the two o'clock, the Talmer Bank & Trust hearing they withdrew their objection late yesterday afternoon so that hearing will not take place today. So we have six hearings on the schedule today.

John Braig:

Are there anymore after today?

Jane Romanowski:

We do have other objection forms that we will schedule hearings at the end of today, possibly next week.

John Braig:

Okay, should we take a short break before we begin the next hearing? Okay, we'll break for a few minutes.

(Break)

John Braig:

Okay, let's get back in session here.

6. HEARINGS

a. 9:45 a.m. - Christopher Allbee

John Braig:

Is there a completed form for Mr. Allbee?

Jane Romanowski:

Yes, there is, Mr. Chairman.

John Braig:

With that, would you please read it into the record?

Jane Romanowski:

This is the objection form of Christopher Allbee, address 9977 Sheridan Road, Tax Parcel Number 93-4-123-194-0620. Total property assessments are $223,800. Mr. Allbee explains why he feels the value is incorrect. He says it is significantly higher than recent sales of comparable property. His opinion of the value as of January 1 would be $170,000. The property was purchased in August of 2003 for $205,000. There were some improvements made as you can see on the form, asphalt driveway, landscaping, not listed the property in the last five years. And has anyone made an appraisal, yes, on April 18 of this year, 2011 to determine current value. And the appraised value was $170,000.

John Braig:

Thank you. With that I'll ask you to swear in the witnesses.

Jane Romanowski:

If you could stand, Mr. Allbee? Do you solemnly swear in the matter now in hearing to tell the truth so help you God?

Christopher Allbee:

Yes, ma'am.

Jane Romanowski:

Okay, have a seat please.

Rocco Vita:

Rocco Vita, I do.

Ed Judt:

Ed Judt from the Village of Pleasant Prairie, I do.

Jane Romanowski:

And then the people that were just sworn in, if you could just state your name and address for the record.

Christopher Allbee:

Chris Allbee, last name is spelled A-L-L-B-E-E, at 9977 Sheridan Road, Pleasant Prairie.

Ed Judt:

Edward Judt for the Village of Pleasant Prairie.

Rocco Vita:

Rocco Vita, Village of Pleasant Prairie.

John Braig:

Mr. Allbee, this is a formal proceedings. It's being recorded. Everything will be used in the event that you want to pursue your objection beyond this group. But it's somewhat informal. We try to make sure that you're given the opportunity to present your case and that the assessors can defend their position. So there will be some back and forth on this. But basically it is formal and it is recorded. At this point we're ready to hear your objection and for you to present your case.

Christopher Allbee:

May I give the Board copies of the appraisal that I had done?

John Braig:

Sure. Does the Assessor have a copy?

Rocco Vita:

We do.

John Braig:

You may go ahead now.

Christopher Allbee:

I don't believe I gave them an updated copy I had. I know I gave Mr. Judt an emailed version of an older one. I don't know if you have the new one.

Ed Judt:

That's the one I have.

Christopher Allbee:

Okay. I brought it back to the Assessor and had given him the information you gave me and he adjusted it. He found another property. What Mr. Judt is referring to is I gave him an older one and comparable sale number 3 ended up being a foreclosure. So the appraiser replaced it with a different property that was not a foreclosure. And then comparable sales two, that the Village has, and the one I gave Mr. Judt was not a foreclosure. I'm not well versed in this. This is my first time sitting here so you have to excuse me.

I just noticed the values of the properties similar to mine in the area seemed to be much lower than when I got my tax assessment from the Village. So I decided to hire an appraiser to go and check on comparable properties. And he came up with five sales that were less, and they range from June of 2009, June of 2010, December of 2010, January of '11 and April of '11.

Rocco Vita:

I apologize for interrupting.

Christopher Allbee:

No, no problem, sir, go ahead.

Rocco Vita:

Mr. Chairman, did the Clerk read the property objection form into the record?

Jane Romanowski:

Yes:

Rocco Vita:

The whole thing? Okay, I'm sorry, I apologize.

John Braig:

It's a valid objection, though, but if you're satisfied with the answer.

Ed Judt:

Since we're interrupting, if we could just take a minute I guess I'd prefer to wait for Jane to come back with copies of that appraisal so we all have one to look at as Mr. Allbee is describing to us the progression.

John Braig:

Did she have to make the copies?

Ed Judt:

She's making them right now.

John Braig:

Okay, we'll wait. As you can see it is somewhat informal.

Christopher Allbee:

I'm happy for that. Like I said, I've never been to anything like this before.

Mark Riley:

While we're waiting would you read the dates of those comparable properties again, the dates that they were sold.

Christopher Allbee:

Comparable 5 was June 25 of 2009, number 4 was June 8 of 2010, number 3 April 15, 2011, number 2 January 28, 2011, and number 1 December 22, 2010.

Mark Riley:

Thank you.

Christopher Allbee:

You're welcome, sir.

John Braig:

Okay, I think we're ready to continue. Mr. Allbee?

Christopher Allbee:

Sir, and just that in the assessment the most value, or excuse me the most weight was placed on comparable sale two due to its proximity to my home and having the least amount of gross adjustments. The appraiser advised me that he could find no sales superior in comparability to mine in the last 12 months and all the information that I have is there in the appraisal. I'm just mostly working off of what I was given, sir. This is not my area and that's why I hired the appraiser.

Mark Riley:

Most of the value was placed on 2?

Christopher Allbee:

Yes, sir.

John Braig:

That's where the emphasis is, okay. If you are finished with your presentation, then we turn it over to the Assessor for his presentation.

Christopher Allbee:

Yes, sir.

John Braig:

Thank you. Rocco?

Ed Judt:

You all have our handout?

John Braig:

No, we don't. We just have the objection form.

Ed Judt:

Okay.

Christopher Allbee:

Thank you, sir.

Ed Judt:

I'm going to direct your attention to the third page, the sales grid. The subject property, once again, is at 9977 Sheridan Road, Tax Parcel Number 93-4-123-194-0620. Again, the 2011 assessment is $223,800. It breaks down this way: $64,700 to the land, $159,100 to the improvements, again, for a total of $223,800. This is a bi-level home on Sheridan Road. We placed this house in–Rocco described to you the Carol Beach neighborhoods earlier this morning. He forgot one, and that's the one that this parcel exists in. It is actually the parcels that front Sheridan Road in Carol Beach which we segregate from those other homes on the west side of the train tracks in Carol Beach.

Again, a bi-level home, average construction built in 2003 generally in good condition. This house has a basement of 1,100 square feet, 760 square feet of it is finished. The first floor is

1,328 square feet, so including that basement area you have a total here of 2,088 square feet. Three bedrooms, three full baths, vinyl exterior. Again, kitchen and baths good relative to the rest of the home. There is air conditioning. There's an attached garage, and there's a patio or a deck in the rear. We have a deck of 420 square feet.

The first comparable is Parcel Number 93-4-123-203-1730. Can you bring that picture up? This house is located at 11117 8th Avenue, also in that Carol Beach west neighborhood. This house sold for $229,900 in January of 2009. This house sits on a smaller lot, 66 feet by 233 feet, again, in the Carol Beach west neighborhood. Also a bi-level home, average construction. This one was built in 2006, generally in good condition. We've got a basement of 1,399 square feet, 1,017 square feet of that basement finished. First floor is 1,430 square feet. So, again, including that basement living area you have a total of 2,447 square feet. This house has four bedrooms, three full baths, vinyl exterior. Again, there is central air and an attached garage of 720 square feet.

Comparable number 2, Parcel Number 93-4-123-322-0525, this house is located at 12121 2nd Avenue. This house sold in March of 2008 for $260,000. This lot sits on a lot of 60 feet by 150 feet. It is in what we describe as the Carol Beach south neighborhood. Also a bi-level home average construction. Built in 2005 and in good condition. It's got a basement of 1,120 square feet, most of it finished, 920 square feet. You have first floor of 1,264 square feet for a total here of 2,184 square feet. Four bedrooms, three full baths, aluminum exterior. This house happens to have a nicer kitchen than you might expect. It has central air and there is an attached garage.

And, finally, comparable number 3, and actually I believe this is one sale that the appraiser shares with us in his revised appraisal. Indeed, it is comparable number 5. This is Tax Parcel Number 93-4-123-191-0770 at 9767 Sheridan Road. This house sold for $190,000 back in June of 2009. This house it shows it's comparable for precisely the reason that it is in the same neighborhood as the subject parcel, in fact, just a few doors to the north. So it's on an identically sized lot of 130 feet by 300 feet so no adjustment there for either the size or the location of the lot. This is, again, in that same neighborhood, that Carol Beach Sheridan Road frontage neighborhood. This is a one story ranch home, slightly less than average construction quality. Older home as well built in 1992. Generally in good condition.

You see there, and you're not used to seeing this, you haven't seen this many times over the years, but in that design and utility field typically you will see typical, but not in this case, you see inferior. The reason for that is this house sits immediately adjacent to the RV hotel, in fact on the north side of it, so we make an adjustment to that, what we would define as economic obsolescence, that is obsolescence related to something external to the property. And then you have a basement of 1,144 square feet. In this case none of it is finished. So you have a total living area of 1,144 square feet, that being first floor space alone. There are three bedrooms, two full baths, aluminum exterior. This one has central air as well. There is no attached garage in this case, but there are a couple of detached garages fairly large ones of 1,176 square feet and 960 square feet. So having adjusted for all of those differences in amenities and characteristics, we arrive at adjusted sales prices ranging between $220,000 and $245,000. You average those and you arrive at a blended value of $229,100, again, on the current assessment of $223,800.

When Mr. Allbee and I originally spoke, I gave very little weight to the assessment because two of the three sales involved bank activity. One was a sale from First Banking Center. The other one a sale from Fannie Mae. It's been our experience that those kinds of sales are notoriously low. In fact, as we made our way through the revaluation last year we specifically looked at sales involving banks, whether they were short sales, deeds in foreclosure, post foreclosure sales, all of them significantly lower than the sample of sales that did not involve any kind of bank activity. In fact, we shared that with the Department of Revenue and got their blessing in not using any of those sales for purposes of our revaluation analysis last year. So apparently the appraiser in this case has removed one of those sales. He continues to employ 926 101st Street, comparable number 2, and that is a case where Burco Holdings was the seller. Burco is the corporation that the FDIC forced First Banking Center to dump all what the FDIC termed their lousy assets into. So this was indeed a bank sale.

Rocco Vita:

Mr. Allbee, referring to your appraisal, I just have a question or two. Your comparable number 1 at 3735 125th Place, actually this is for the record located at 125th Street. It's not a big issue. I can see that the site of your property, your lot, is 39,000 square feet according to your appraiser. And this particular property–do you know where this particular property exists, what subdivision it's in?

Christopher Allbee:

No, sir.

Rocco Vita:

Okay, this subdivision is in a subdivision called Green Tree Estates. They're relatively small lots. As you can see the site there is 7,200 square feet. And I can see your appraiser made an adjustment of $8,000. Can you explain why he made that adjustment or why he made that adjustment or what that means?

Christopher Allbee:

No, sir, I don't know.

Rocco Vita:

Would you be able to explain how any of those site adjustments were made to the Board so they can have a better understanding of how your appraiser came up with the value?

Christopher Allbee:

No, sir, I don't know.

Rocco Vita:

About that value of $170,000, can you explain to the Board how your appraiser arrived at that value?

Christopher Allbee:

Just that he–there was a value range established between $167,800 and $183,500, and that this is where my property fell into.

Rocco Vita:

Okay. So you don't know if he averaged the adjusted or how he came up with that range?

Christopher Allbee:

No, sir, I don't.

Rocco Vita:

Did you ask–this appraisal was done for you, was it not?

Christopher Allbee:

Yes.

Rocco Vita:

So you are the client and user?

Christopher Allbee:

Yes, sir.

Rocco Vita:

So we were able to look at this today, did you ask Mr. Truax if he could come here on your behalf and explain to the Board how he made these determinations?

Christopher Allbee:

No, I didn't.

(Inaudible)

Christopher Allbee:

If he could then.

John Braig:

I think it would probably be appropriate if the man is here to let him be heard, but we would need the Clerk to swear him in.

Jane Romanowski:

Would you raise your right hand please? Do you solemnly swear in the matter now in hearing to tell the truth so help you, God?

Daniel Truax:

Yes, ma'am.

Jane Romanowski:

Have a seat and state your name and address for the record please.

Daniel Truax:

My name is Daniel Truax, I'm working at 7535 18th Avenue.

Rocco Vita:

Alright, Mr. Truax, nice to meet you. Maybe you can explain to the Board then your process in the appraisal and how you came up with the value on behalf of Mr. Allbee.

Daniel Truax:

Sure. Let me get familiar with the property. One is Mr. Allbee's property is a raised ranch dwelling so it's a little bit more unique in comparison to other type properties. They're prevalent in Pleasant Prairie, of course, especially over east of Sheridan Road Carol Beach area. The value was established in trying to grab or obtain similar sales, whether they be raised ranch rather than two stories. Similar square footage with the square footage above grade being counted only. The reason we used number one even though it's smaller in square footage was to demonstrate the marketability of a raised ranch style dwelling. They share a particular marketability compared to other properties. They are similar in marketability in my experience to ranches with finished basements because, again, the square footage above grade with finished basements below being similar.

As far as coming to a value, a reconciliation of value, we put most weight on comparable sale 2. That's how we came up with the $170,000. One, because it's a recent sale which demonstrates the immediate market trends. Also, for being closest in proximity to the subjects demonstrating the immediate marketability to the subject area. Sometimes when you get a little further away it gets a little bit difficult to pinpoint values for that market area. That narrows it down to the $170,000. We established and adjusted the value from $167,800 to $182,500. I understand that the property if we left it on on Sheridan Road we did that to demonstrate the marketability of a busy road, because obviously that gets impacted by external obsolescence. That's something that Mr. Allbee has with his property. I don't know if that helps at all, the reason why we chose the comparables that we did.

Rocco Vita:

So the effective date of the appraisal is–

Daniel Truax:

It looks like 4-18-11.

Rocco Vita:

Right. And I notice on comparable number 5 you provide a time adjustment. Can you explain to the Board what your time adjustment was or what that is?

Daniel Truax:

Because that was in 2009 there was a time adjustment. The market has been since then to the date of appraisal has dropped, actually values have dropped in the area so that's to reflect that value decrease.

Rocco Vita:

So is there like an amount per month that you apply typically in this market?

Daniel Truax:

I don't have a calculator and my notes obviously I didn't bring because I wasn't planning, so I'm sure it was a percentage based on an annual percentage. So you'd break down X amount of percentage per year, multiply the total months of that percentage. That's how we obtain that.

Rocco Vita:

So then in comparable number 4 that sold a year different than comparable number 5, and about eight months or actually–

Daniel Truax:

It's over a year.

Rocco Vita:

–ten months from here there's no time adjustment. Is that because the market has been pretty static from 2010 to 2011?

Daniel Truax:

It's not that it's been static, but you have to use a rule of thumb, and usually anything past 12 months you have a little bit better understanding of what transpired from the effective date of the appraisal which was April of '11. So based on that we can extract kind of an impact of percentage drop or value drop in the area.

Rocco Vita:

And what's significant here I see is that most of the comparables–this is a part of Carol Beach that has very large lots. So the subject property has almost one acre, not quite. It's 39,000 square feet, and you can see the other sites are as small as 7,000 square feet but typically more like 10,000 square feet. So that adjustment going from 7,200 divided by 43, 560, so it's one-seventh of an acre to almost a full acre of $8,000. Can you explain to the Board what the $8,000 means and how that works–

Daniel Truax:

It's a price per square foot adjustment. Again, I don't have the stuff in front of me with the notes, but it might be a 35 cent or 25 cent per square foot adjustment. The property does have close to an acre. We used, again, comparables to try to bracket or demonstrate that square footage in comparables 4 and 5 to reflect those lot sizes. Again, those properties as you can see were originally selling at $180,000 or $190,000. By the time we made adjustments for the extra garage and square footage of the property, they're still coming down to close to consolidate into the market trend. So we demonstrate what the lot value would be similar to Mr. Allbee's. Those adjustments that we did make for the properties that were dissimilar were, again, had a price per square foot attributed to them. Once you start getting in bulk square footage for a lot size obviously the price per square foot drops. Mr. Allbee also has a conservancy I believe behind his property and/or wetlands, so it's not the same buildable lots as the smaller lots for value per square footage.

Christopher Allbee:

Almost the entire whole back half is wetlands. I can't do anything with it. You can't fill or anything.

Rocco Vita:

Is this your home behind us here?

Christopher Allbee:

Yes, sir.

Rocco Vita:

So it appears that you were able to do something with the property?

Christopher Allbee:

Oh, yes, sir. I'm just saying the back half, the eastern half as far as you mentioned the lot size, you can't build. The lot is a larger lot like you said than some of the other properties, but almost the entire back half, I mean the east half east of the house is wetlands that you can't build on or anything of that nature. That's what I meant, sir. Yes, you're correct, for the western half, yes, I can build on that.

John Braig:

Is there dual zoning on that property, some of it uplands and some of it is it zoned wetlands?

Daniel Truax:

That I wouldn't know offhand.

Christopher Allbee:

I know it's part of the Chiwaukee, I think it's the Chiwaukee wetlands? I did have contact–when I first moved in when I had questions about it I did speak with the DNR about it and they said, yes, for sure. I don't have the exact feet in front of me, but I know almost–it has to be somewhere between 40 and 50 percent of the eastern half–excuse me, 40 to 50 percent of the total property which would be the portion east of the house towards the lake is wetlands, protected wetlands by DNR.

Rocco Vita:

Maybe you can explain to the Board those areas that you describe your bedrooms and bathrooms and those kinds of adjustments how that works in your appraisal.

Daniel Truax:

Sure. First we grabbed properties, for instance, in a case where we might have used a ranch in comparables 4 and 5, specifically 5, to get a bedroom count. So that was obviously below grade bedroom. Anything that was below ground was not counted in the obviously above grade footage or bedroom count. So that's how we established meeting our baseline. So we wanted to get obviously it would be ideal to have a similar bedroom count. And once we did so it was $1,000 per bedroom, $2,000 adjustment for a full bath, and a half bath would be a $1,000 adjustment.

Rocco Vita:

So this wasn't for financing purposes, was it?

Daniel Truax:

No.

Rocco Vita:

So you still gave limited value and limited weight to the areas that are finished in the basement?

Daniel Truax:

Limited, how do you mean limited?

Rocco Vita:

You didn't categorize the bedroom as a bedroom?

Daniel Truax:

We gave it a description as a bedroom, yes, just not above grade. And typically a typical appraisal industry standard on any house we have to get to a constant. So in other words if I was comparing a ranch with 1,300 square feet and it had a full basement that was finished that would be the same as what Mr. Allbee's property would be. In other words, I couldn't include Mr. Allbee's basement as gross living area and include the bedroom count, because if it was going to be a comparison method that ranch that would have that full basement–in other words Mr. Allbee's wouldn't have a basement in essence. If he had a finished basement and including it in the total bedroom count, the total gross living area he would be compared against other properties that still have those aspects, but they're not getting counted for a basement. So that's why we do that. We get to a constant so we can have apples to apples kind of comparison.

Rocco Vita:

Do you quantify the amount of area that's finished in each of these basements to help determine those adjustments to value under the portion called basements and finished rooms below grade?

Daniel Truax:

Are you talking about percentage or square footage?

Rocco Vita:

No, square footage.

Daniel Truax:

If this . . . full then it will be, again, an easier ranch will have a full footprint. If it's off by maybe 50 foot for a porch that didn't get bumped out it's irrelevant really for a basement square footage.

Ed Judt:

I think the question is have you made any attempt to quantify the finished space in that basement?

Daniel Truax:

Yes, below that there's rooms below grade. So the percentage of finished is quantified in that room adjustment, bedroom adjustment or rec room finished. That's where the value comes in for the amount finished, the items that are finished and so on.

John Braig:

How is the number determined? I see in effect on column 4 you're adding $1,000.

Daniel Truax:

That $1,000 was for–

John Braig:

Is that on a square foot basis or is that just–

Daniel Truax:

Which are you talking about?

John Braig:

Comp 4.

Daniel Truax:

On the rooms below grade?

John Braig:

Yes.

Daniel Truax:

Except for the bath it looks like it should have been a $2,000 adjustment. So it would have been a typographical error and it should have been a $2,000 adjustment. So the value would have adjusted up to $183,500, which would have increased the gross adjustment only separating it from the subject property as far as similarity.

Rocco Vita:

Just one question more just to make sure the Board understands how the appraisal process works. When you look towards the bottom under porch, patio, deck, fireplaces, I can see that the subject property has none. And I look at the right hand side and I see that comparable number 3 does have a fireplace. So your adjustment is minus $1,000. So explain to the Board how the adjustment process works.

Daniel Truax:

Okay. One is the adjustment process is not the cost. It's not that the fireplace costs $1,000. It's what the typical buyer is willing to spend above what the market would bear for that feature. And it also has to apply with the caliber of house, square footage of a house. So someone is typically expecting to pay more for some features with a higher caliber house. In this case we found a fire place attributes a $1,000 value when you do matched pair sales in the marketplace. That $1,000, same thing with a fence. Any of those adjustments are through the impact that a typical buyer is willing to spend above and beyond what is lacking.

Rocco Vita:

So it doesn't make any difference how big the fence is or what kind of a fence is?

Daniel Truax:

Normally when we do the review process of the comparables if it's just a little fenced in garden or a frontage fence it's really not considered a fenced in yard.

Rocco Vita:

Right, that's what I mean, a fenced in yard.

Daniel Truax:

So we look at that when we input the data.

John Braig:

Something that's not been mentioned at all, maybe the Assessor or maybe Ms. Schlater is aware of Mr. Truax's professional credentials. I am not. I don't know if he came off the street.

Daniel Truax:

Did you want me to state so? In the report it gives a certification. I'm State certified, FHA approved, been practicing since 2000.

John Braig:

I was looking through here. You say it's in here?

Daniel Truax:

Yes. It's on the bottom of page 2 of 2, certification number. I don't know if I sent over my license with this. I'm licensed in Illinois.

John Braig:

Good enough. I'm satisfied.

Daniel Truax:

It's on the back of the report.

John Braig:

At this point you both have made presentations. You've had questions back and forth. You've got something else?

Christopher Allbee:

I just wanted to state on the record, because I was reading through some of the information that has to be on orally, just that comparable sale 1 was at 3735 125th Street, and it sold on December 22 at $451,000 and it was adjusted to $167,800. Comparable 2 at 926 101st Street sold for $168,000 on January 28, 2011 with an adjusted sales price of $170,000. Number 3 was at 12109 2nd Avenue which sold on April 15, 2011 for $173,000 with an adjusted sales price of $171,200. Comparable number 4 was at 925 95th Street, and it sold for $180,000 on June 8, 2010 with an adjusted sales price with comparable of $182,500. And number 5 was at 9767 Sheridan Road with a sales price of $190,000 June 25, 2009 with an adjusted price of $174,700. That's all.

John Braig:

Does the Assessor which to make a summary statement?

Ed Judt:

I guess I would just reiterate briefly some of the things we talked about earlier this morning, and that is that this 2011 assessment is still an attempt to get at value as of January of 2010, the date of the last revaluation. When you look at the comparables that the appraiser used in this case with one exception they all occurred after we would have developed our values on the spring of 2010. So for the five sales that he employed here weren't available to us at that point. So they didn't play any role in our analysis. They didn't play any role in our arrival at Mr. Allbee's current value. But obviously we're going forward.

John Braig:

Thank you. With that we've heard from both parties. I close the taking of additional testimony and open it up to discussion and questions by the Board.

Lena Schlater:

Mr. Allbee, I'd like to ask a question regarding the description of your property. You don't see any discrepancies in the description that was provided from the Assessor's office, is that correct?

Christopher Allbee:

No, ma'am. I'm just working off the sheet here that I received in the mail. I mean it all looks correct, yes.

Lena Schlater:

Do you understand what the Assessor just mentioned that out of the five comps that the appraiser used only one actually took place before January 1, 2010. And the next reval is probably when they're going to look at these other homes that have sold.

Christopher Allbee:

Yes, ma'am, I realize that listening to it now. Like I said this is all new to me. I had it done and I figured the most recent information would be great, and I just felt it should be adjusted.

Lena Schlater:

As much as I sympathize for those comparable properties that have sold for less than what you paid for back in 2003, as far as the panel members are concerned here we have to go based on what actually closed and sold before January 1, 2010.

Christopher Allbee:

Okay.

Mark Riley:

Were you able to meet with the Assessor's office prior to doing all this work?

Christopher Allbee:

Yes, I spoke to Mr. Judt on the phone when the first appraisal was done, yes.

Mark Riley:

Did they make it clear to you that you would be defending the 2010 assessment, not the current assessment?

Christopher Allbee:

Sir, I don't recall. I know he looked at a few things and said he'd feel comfortable going before the Board, but that's all I recall. He told me that one sale was a foreclosure, but the other one actually was not a foreclosure. That's all he told me.

Jill Sikorski:

And do you see the dates of the sales in the Assessor's information?

Christopher Allbee:

Yes.

Jill Sikorski:

January '09, March '08, June '09. Obviously we're comparing apples and a big bushel of oranges compared to the current dates your appraiser used. So, again, we're looking at what information was available to base your properties assessment as of January 2010.

Christopher Allbee:

Sure, and I heard the discussion before as I was sitting in the audience. I think I understand which way you're going. But hopefully from here forward that will be taken into consideration. If any good can come of it maybe it will be adjusted down.

Jill Sikorski:

Right, next January they do a reval.

Christopher Allbee:

I like everybody else would love my home to be $250,000, but the reality is it's not. And if I placed it for sale now there's no way in the world I'd get $223,000, because if I could I'd sell it to any one of you now for $10,000 or $15,000 below that.

Rocco Vita:

If I may indulge the Board. I apologize after the hearing has been closed. But the fact that the property sold after January 2010 or in 2011 isn't necessarily a bad thing. The thing of it is the assessed values were set as of January 2010. I don't know if that would be a good reason in my mind–you can always take, and that's a valid indication of value at that time, it's just the time adjustment needs to be worked to the point of when everybody's else values where set. I don't think you can just discredit it or just count it out of hand. It needs to be considered in that light.

John Braig:

Further discussion?

Lena Schlater:

That was my reason for asking if there was any discretion in the description of the property, and if there isn't, and really the most emphasis was put on comparable property number 2 which sold in 2011, so that really kind of ties our hands as far as us being able to change the 2011 assessment.

John Braig:

Well, as we all know based on State law we are obligated to uphold the Assessor's assessment unless we find that the evidence presented is sufficient to change it.

Lena Schlater:

I move to uphold the 2011 assessment.

Mark Riley:

Second.

John Braig:

It's been moved and seconded to uphold the 2011 assessment or the current assessment. All in favor indicate by saying aye.

Jane Romanowski:

We need a roll call vote.

SCHLATER MOVED TO UPHOLD THE 2011 ASSESSMENT IN THE AMOUNT OF $223,000 FOR PROPERTY LOCATED AT 9977 SHERIDAN ROAD, TAX PARCEL NO. 93-4-123-194-0620; SECONDED BY RILEY; ROLL CALL VOTE: BRAIG – YES; BURKE – YES; SCHLATER – YES; SIKORKSI – YES; RILEY – YES; MOTION CARRIED 5-0.

John Braig:

Thank you. Mr. Allbee, you've heard the decision of this group. You will receive that in writing along with information as to what your course of appeal is if you wish to pursue further. With that, we're ready for the next hearing, that of David and Laurie McKeon.

Tom Camilli:

Mr. Chairman, may we have a brief break?

John Braig:

Yes, brief break.

(Break)

John Braig:

Are we all back together?

b. 10:15 a.m. - David & Laurie McKeon

John Braig:

Is there a completed objection form?

Jane Romanowski:

Yes, Mr. Chairman, there is.

John Braig:

We'll ask the Clerk to read it into the record.

Jane Romanowski:

> This is the objection form received from the property owners David and Laurie McKeon. Agent is J. Michael McTernan. This for property located at 11887 Lakeshore Drive, Parcel Number 93-4-123-322-0065. Total property assessment is $1,014,900. They explain the assessed value is incorrect indicating recent sales of comparable properties. Their opinion of the value as of January 1st would be $892,000. The property was purchased in July of 2003. The land was purchased for $362,500. Home built on vacant land in 2004 with approximate value of $735,000. The property has not been listed for sale in the past five years, and there has been an appraisal of the property which was done on October 26, 2010 for refinancing purposes. And the appraised value of that document was $892,000.

John Braig:

> Thank you. With that we'll ask you to swear in all the witnesses.

Jane Romanowski:

> Would all persons testifying today please stand and raise your right hand. Do you solemnly swear in the matter now in hearing to tell the truth so help you God?

Voices:

> I do.

Jane Romanowski:

> And then please have a seat and state your name and address for the record.

Laurie McKeon:

> Laurie McKeon (inaudible).

Daniel Truax:

> Daniel Truax, 7535 18th Avenue.

Ed Judt:

> Edward Judt, 9915 39th Avenue for the Village of Pleasant Prairie.

Rocco Vita:

> Rocco Vita, Village of Pleasant Prairie.

John Braig:

Mr. McTernan, are you going to give testimony?

Michael McTernan:

Sure, might as well. Michael McTernan, 6633 Green Bay Road, Kenosha, Wisconsin.

Jane Romanowski:

Do you solemnly swear in the matter now in hearing to tell the truth so help you God?

Michael McTernan:

Yes, I do.

Jane Romanowski:

Would you make sure the microphone are on?

Michael McTernan:

We turned them on, sorry about that.

John Braig:

This is a formal hearing. It's being recorded. What is recorded could be used or would be a factor should you decide to appeal further. Aside from that it's quite informal. You're going to have an opportunity now to make your presentation followed up by the presentation by the Assessor. And after that questions give and take and so on. So the actual proceedings will be somewhat informal. With that, we're ready to hear your objection and your justification for it.

Michael McTernan:

And in that context, Mrs. McKeon is leaving to go back to school honestly later on tomorrow, and I'm going to have her testify quickly. And then if you have any questions for her I'd like you to ask them. But I'd like permission from the committee to have her leave because she has to pack and get six kids ready to leave town tomorrow for her to go back to school. So if that's not an issue, my expert will here, though, for the conclusion of the testimony. I just have a little bit of information I want her to have on the record.

John Braig:

Good enough.

Laurie McKeon:

Is that okay? I was told I'd be out of here by 10:30. I've got kids all over the city.

John Braig:

Do you have any objections?

Rocco Vita:

No.

John Braig:

Good enough. Go ahead, proceed.

Michael McTernan:

Mrs. McKeon, I know you built the house. Have you made any substantive changes to the property since you originally built it and purchased it back I believe in 2004?

Laurie McKeon:

No.

Michael McTernan:

And did you have the property recently refinanced?

Laurie McKeon:

Yes, we did.

Michael McTernan:

And was an appraisal done in connection with that refinance?

Laurie McKeon:

Yes, it was.

Michael McTernan:

And is it the appraisal you have in front of you that was applied to the Assessor and it was done by William Bohnke? If I butchered his name I apologize.

Laurie McKeon:

Yes, this is it.

Michael McTernan:

And this is a true and accurate copy of your appraisal?

Laurie McKeon:

Yes, it is.

Michael McTernan:

And do you believe the opinion of value of $892,000 is a fair value as of the date the appraisal was done?

Laurie McKeon:

Yes.

Michael McTernan:

From her standpoint that's all I want into the record, and a copy which I know the Assessor has. You don't need another copy of this do you guys? Do you want me to include this as part of the record as the appraisal that I had provided to the Assessor earlier this year. And I just include this as part of the record.

Ed Judt:

I don't recall you giving us a copy of this one.

Michael McTernan:

Yes, I did. Mrs. McKeon–

Laurie McKeon:

And I actually dropped this off when we got it. I dropped it off with the office back there back in like probably like the day we got it because David was livid about it.

John Braig:

If it is submitted as part of the record I think we should at least have a copy of it in this room.

Michael McTernan:

Fine, Your Honor. Is there any other information you need from Mrs. McKeon. That's the only testimony I'm going to have her provide.

John Braig:

I think the rest of it will be discussing technicalities of the appraisal itself.

Laurie McKeon:

So I'm free.

John Braig:

Yes.

Laurie McKeon:

Great, thank you.

Michael McTernan:

In the context I guess hearing what occurred just prior to this hearing is the belief that this Board took that the Board convenes only to examine values as of January 1, 2010. Now, I call your attention and I make the record that Section 70.47(7)(a) of the Wisconsin Statutes clearly states that the value that is being contested is the value and the opinion of the taxpayer as of the date of January 1 of the taxes being assessed which would be January 1, 2011. If the case was or your position is that the Board believes that assessment is simply done every two years and only two years do we look at value, you're saying, well, the taxpayer then it doesn't matter in the year that he appeals, he's really challenging an assessment from two years ago. That isn't what the law says and that isn't what your forms say, nor is that what the taxes are based on on an every year basis. It's based on January 1 of the year the taxes are levied which would be January 1, 2011.

I know there's case law out there and I know I had discussions with the Assessor stating that he doesn't believe he can make modifications and changes to the value because a case that came down that was litigated in the Supreme Court called Noah's Ark Family Park v Board of Review of the Village of Lake Delton, it's case number 216 Wisconsin 2nd 387. The issue in that case strictly dealt with whether or not the Village of Lake Delton had the ability in an off assessment year to go out and change the tax assessment of a single property owner, Noah's Ark, based on a sale that happened in an off reval year. In that context the Supreme Court clearly indicated in its opinion that based on, and I'll read your position, based on the uniformity clause, the assessor did not have the right to go out into the community and pick one or two or an isolated taxpayer just because of a recent sale and change their assessment in an off assessment year. Because the uniformity clause of the Constitution requires that if the assessor is going to take the obligation or opportunity to go and look at a taxpayer they have to look at all taxpayers as a protection of the parties because of our government in a position to look at revaluation they need to sit there and examine whether or not the assessor's office is treating everyone the same.

That, however, is because the State Legislature has established that the communities can establish reassessing every year, every other year, every five years or even every ten years based on size. But that doesn't preclude an individual taxpayer to come before the Board of Review that meets every year to challenge their values based on the taxes that were assessed on their tax bill as of January 1, 2011. It's not that we're looking at the tax bill and we're just simply saying this is the taxes based on 2010. It's because the value of what the rolls that were certified by the Assessor is the values as of January 2, 2011. That's the year in question. We're not examining and looking at what mistakes may have happened in '10. Those rights were lost by a taxpayer when they didn't file their objections prior to the deadlines in 2010.

But just because the community doesn't take the obligation of going and reassessing the entire community, the forms in the statute clearly identify that a taxpayer is allowed to challenge the value of the assessment of their property as of January 1 of the year being appealed. That's 2011. I turn to your objection form. It clearly identifies the statute and identifies the position of what the appeal is being taken, identifies the year in question that is being decided.

Just because the Assessor has left the rolls alone and the burden hasn't been placed on the Village to go and reassess the entire community only every other year doesn't mean that we are frozen in time that all challenges have to go back in time to examine 2010 values when you're being assessed based on the values placed in 2011. That happens, and it does and you know from an Assessor's standpoint that when a property, and I'll take the scenario that if someone is building a new home and they have constructed property and they have a project that's brought on line, there are assessments that are issued for changes in construction, for development projects in a given year. And it doesn't say, well, what was the value back in '10? It doesn't say that. They look at what was the value on January 1, 2011.

John Braig:

Let me interrupt you briefly. I think we may have contributed to a little misunderstanding. We used the term 2010 when we correctly should have said 2011. And the reason why we make that error is because 2011 is almost directly hinged to 2010. So your point is valid. It must be based on 2011. In the terminology we have used up here we have referred back to '10 when we probably should have said '11, and it's only because the direct relationship between the two years because there was no revaluation in 2011.

Michael McTernan:

I understand that. The objection is based on the assessment that was established as of the value of 2010, but as I hear before and that's why I wanted to make the clarification that I want to understand that we're dealing with what was the value of this property on January 1, 2011 even though the assessment rolls are using the value when it was revaled back in January 1, 2010.

John Braig:

Good point.

Michael McTernan:

And in that context, what brings to light in this context as was reported and I received this morning in the Wisconsin Realtors Association to get your point of looking at values, Kenosha has seen an 8.8 percent drop in values from May of 2010 from $136,000 median priced homes to May of 2011 median priced homes of $124,000. So we continue to see this drop in real estate values which then brings forth why appraisals were done, and the appraisal that was offered and in front of you as of October 6, 2010 that the value of the property before you was opined at $892,000 instead of the assessed value of $1,014,900.

And in that context, one of the things that the Assessors in open book have discussed is why aren't we examining an appraisal that was conducted within a month and a half or two months of the January 1, 2011 value with sales data that occurred in and around the January 1, 2011 data? Again, I understand the Assessor's concern is they don't believe they can agree to make modifications to the assessments in an off assessment year with the reading of the law that they believe the only body that can make those modifications is the Board of Review. It is not in their mind in an off assessment year if nothing has changed but the market, they believe based on Noah's ruling that provided that the uniformity clause requires that all taxpayers are treated equally that they, in turn, have an individual taxpayer or individual taxpayers come out and ask for modifications of assessment given the change in value from January 1, 2010 to January 1, 2011, and I don't find that to be the law.

It's clearly the law that protects the citizens from the government singling people out, but every citizen has a right on January 1st to go in and challenge their value. And that's why the Board convenes every year because taxpayers have a right to come in in the tax year in question and say I may have made–there may be a mistake on my value which has happened, or I may have forgot to challenge my assessment last year so I want to correct that this year and I want the Board of Review to examine those issues. So I look at the case law and I understand the Assessor's viewpoint that they can't make modifications given this law, but I believe the law clearly says the opposite, it only restricts the government, not the individual taxpayers.

In that context, as Mrs. McKeon had stated there's been no change in the construction of her home that has made any material modifications. She had it re-evaluated or appraised based on a refinance when the drop in the mortgage market took place in October or November of 2010, and the revaluation had provided based on sales which is the number one marker that we look at in looking at whether or not the assessed value is correct, the sales in the marketplace that are similar to hers to bring us to a fair market value as of January 1, 2011. The primary source of determining that value is obviously comparable sales.

Dan Truax is here, and he did not prepare the appraisal you have in front of you. He is an independent expert, and I'd like to have him provide his credentials to the Board and have him explain why he believes the value of the home is also close to the $890,000 value that is in the appraisal. Dan.

Dan Truax:

I have my credentials before, but I'm State licensed, State certified, FHA approved. I work with HUD establishing housing pricing for foreclosure in the HUD liquidation properties. I'm licenses in Illinois. I don't know what other credentials you might want.

John Braig:

That's good enough. Before we proceed, this appraisal was prepared by Chase Bank or employees of the bank.

Michael McTernan:

That's fine, Your Honor. I have no objection to that at all.

John Braig:

And the date of that appraisal was?

Michael McTernan:

October 26, 2010.

Rocco Vita:

Who was the client of the appraisal?

Michael McTernan:

The appraisal was paid for by, as Mrs. McKeon had testified, for her in connection with a refinance with Chase Bank.

Rocco Vita:

The client was who?

Michael McTernan:

I have no idea who–you can probably look at the appraisal.

Rocco Vita:

The client as stated is JPM Chase Bank as ordered by CoreLogic.

Michael McTernan:

I see it.

Rocco Vita:

So do you have permission of the client to present and talk about their appraisal here today?

Michael McTernan:

I know this is not a court of law. I think and I believe that there's nothing inherently interest worthy about Ms. McKeon testifying that she had paid for and obtained through a refinancing of an appraisal done by her lender, that she paid for the lender's appraisal, that she had her house refinanced. And she believes based on the data that is in this appraisal that she has received that there's nothing untrustworthy about the appraisal and information as presented. I believe if I was in a court of law I could get this into evidence, and although I understand your point that JPM Chase Bank is the client, I don't believe that precludes the Board of Review from reviewing that data as the data it states in the appraisal as trustworthy to provide you evidence of value.

Rocco Vita:

But the purpose of the appraisal was for–

Michael McTernan:

Was for refinancing their mortgage.

Rocco Vita:

–refinancing, which and not for ad valorem property tax purposes. Does the Appraiser William Bohnke know that the appraisal is here and that Mr. Truax is representing his work?

Michael McTernan:

Mr. Dan Truax has not stated anything that he's representing his work, and Mr. Bohnke knows that I am–

Rocco Vita:

I apologize, so he's not going to be testifying to anything in the appraisal?

Michael McTernan:

I didn't say that. I said he's not testifying as to the validity of Mr. Bohnke's work.

Rocco Vita:

Did Ms. McKeon get permission from Mr. Bohnke to bring the appraisal, neither the client nor the preparer to present this at this hearing today?

Michael McTernan:

It's a copy of an appraisal she paid, and I don't believe there's any reason she needed to get anyone's permission to use an appraisal and submit it as evidence in this proceeding. If they want to bring an issue and bring a claim that she presented some document that she received and paid for in a refinance I guess that claim belongs to the bank and Mr. Bohnke. But I don't believe there's anything improper or incorrect about having Mrs. McKeon testify what she obtained when she refinanced her home. She received it in the mail and presented it to the Board and dropped it off at your office back in October or November of 2010.

John Braig:

Comments?

Tom Camilli:

Mr. Chairman, I think Attorney McTernan is correct in that this is not a court of law. The formal rules of evidence do not apply in these proceedings. This is a quasi-judicial proceeding. I don't believe there's anything in the law that precludes the Board from considering that appraisal that's being presented by the objector. However, the Board is free to give whatever weight it wishes to that appraiser in light of the examination or interrogation of the Assessor. However, I don't believe there's any authority on the part of the Board to refuse to at least give some consideration to the Board as part of the evidentiary showing on the part of the objector.

John Braig:

I think the attitude of the Board was always one to make sure that the objector is fully heard. And in that spirit I think we'll accept this.

Rocco Vita:

I don't disagree but just to sum up. Just to verify, the client for the appraisal does not know that it's here. Permission was not granted from the client.

Michael McTernan:

I have no idea.

Rocco Vita:

You don't know whether permission was granted from the client, and the appraiser doesn't know that it's being presented here.

Michael McTernan:

The appraiser does know. I had communication with the appraiser and I asked him to testify. He had surgery on his ankle and he could not come.

John Braig:

Would you say that again?

Michael McTernan:

I had spoken via email with the appraiser. The appraiser had surgery on his ankle and told me in an email that he could not make it.

Rocco Vita:

That implies he would have had permission from his client to testify on behalf of the user.

Michael McTernan:

I have no idea and I don't know if he has permission. I don't know if Mrs. McKeon received it independently from JP Morgan. I have no idea.

John Braig:

But they are aware of this hearing and they did not make any objection.

Michael McTernan:

Absolutely, Your Honor, because I sent him notice of the hearing date and time and asked him to come testify and he told me he had surgery and he could not come.

Rocco Vita:

To the appraiser but not to the bank?

Michael McTernan:

I didn't contact the bank. No, I didn't contact the bank, Your Honor. I didn't contact the bank.

John Braig:

I'm not a judge.

Michael McTernan:

You're in the big chair, though.

John Braig:

I guess we're ready for your formal presentation as to the appraisal that you've generated and your support of it.

Michael McTernan:

Well, in that context, Dan Truax has provided you credentials to provide you his testimony and his opinion as to the value of the property, and I'll let him present to the Board.

Daniel Truax:

After review of both the appraisal and also more specifically the comparables using the appraisal, as my reconciliation to value may have been different for different reasons. The most notable that I can make is on comparable–in the report it's comparable number 3, but mainly it's property address 11739 Lakeshore Drive. I found that that was most similar in overall appeal, quality of construction, location, beach to that of the subject property. The reason why I say beach is the property is a lakefront property, have lake frontage, but it does not have a beach, a sandy beach, which is something that is very desirable and impactful on the value of a property when it's dealing with lake frontage.

So it has very similar characteristics to that of the subject property, especially location. It's in the same subdivision, it's not a subdivision but on the same street, maybe a block away. It's smaller in square footage but, again, dealing with the fact that it's lake frontage it's still over 5,000 square feet in square footage so anything over that is extremely rare and difficult to find as far as regular sales. So it's a very good indicator of market value, this property. With that being said, most weight is reflective of value indicator would be for that property. It originally sold for $850,000. Again, due to being smaller in square footage it may be value impact for that that would rise bringing it closer to the $890,000 marker, if not more along the lines of $875,000 I believe.

Michael McTernan:

So what is your opinion of value based on the comparables that you've examined in connection with this property?

Daniel Truax:

I would put a value on the subject property based on specifically this sale at the $875,000 marker.

Michael McTernan:

And has there been any other sales in this neighborhood in the last year that you're aware of that you could use to compare it against?

Daniel Truax:

Not as well as comparable sale 3. There are sales but much inferior in comparability.

Michael McTernan:

I have no further question and no further testimony on our end, Your Honor.

John Braig:

Thank you. A presentation by the Assessor?

Rocco Vita:

What did you say the value was, I'm sorry?

Daniel Truax:

I would put a value more towards $875,000.

Rocco Vita:

$875,000, thank you. Prior to getting started, behind you, and I apologize you having to turn around, there's an aerial photo to the property. Have either one of you been to the shore protection on the McKeon property?

Michael McTernan:

Quite often.

Rocco Vita:

So this land to the east of the shore protection, and it looks like it's a beach to me. Is there a beach on the other side of the shore protection?

Michael McTernan:

Ninety nine percent of the time that I've been there there's nothing.

Rocco Vita:

Besides the fact of having to climb over the shore protection.

Michael McTernan:

Ninety nine percent of the time that I've been on that site there's nothing but water.

Rocco Vita:

How often are you on the site?

Michael McTernan:

Once a week. The McKeon's are dear friends of mine, and my son and his daughter are very close friends and I'm there quite often. I've seen the beach on that property where you're . . . one time in all the times I've been there.

Rocco Vita:

Maybe on a calm day. Today there's waves. And I must admit the picture is about five years old. We're waiting for a new aerial.

John Braig:

Out of curiosity, what is the lake level right now?

Rocco Vita:

I don't know that.

John Braig:

Is it relatively high or relatively low reflecting over the last 20 or 30 years?

Michael McTernan:

It's like bath water if I recall.

John Braig:

Not that warm.

Rocco Vita:

I'll hand these out.

Ed Judt:

I'll be very brief in my introductory comments, and this is becoming a bit redundant, but, I'll tell you again the values that we're considering today are effectively a rollover of the 2010 values. So we are attempting to estimate the value of the house as of January 1, 2010 based on sales that occurred in 2008, 2009 and the very early part of 2010. That's the number we're considering. I'm going to correct one thing, one statement that Mike made. He said when new construction occurs in the interim year, in the off year, that we'll value that at current market value. That's absolutely not true. I mean if you built a house in 2010 that's being assessed for the first time in 2011, that assessment is based on the valuation model that we developed for 2010. So we're kind of playing pretend. We're saying if that house stood here and existed on January 1 of 2010 what would it be worth? That's what we're doing. Again, obviously Mr. McTernan disagrees, but we're beholden to that uniformity clause. We've got to treat everybody the same way. So I can't value a new constructed house in 2011 any differently than the houses on either side that were constructed earlier. Having said that, you have my handout in front of you.

Michael McTernan:

Before you get off that do you mind or do you want to finish and then I'll–

John Braig:

Let's have him make a full presentation and then we'll have the give and take.

Ed Judt:

Again, for purposes of the record the property that's under appeal is Tax Parcel Number 93-4-123-322-0065 at 11887 Lakeshore Drive. The 2011 assessment is $1,014,900. It breaks down this way, $395,000 to the land, $619,900 to the improvements, again, for a total of slightly over $1 million. This house sits on a lot of 100 feet by 202 feet. We placed it in what we call the waterfront south neighborhood. Actually the first two comparables are in that neighborhood as well. The third comparable is in what we call the waterfront north neighborhood. The distinction between those two is an imaginary line that the Village of Pleasant Prairie has created relative to the potential for utilities some day.

The northern part of Carol Beach on this side of the tracks either has or may have utilities such as water, sewer and whatnot. The area south of that line will never have those amenities. It is in what our planners call a LUSA district, the Limited Urban Service Area district. We acknowledge that line only because historically land values north of that land have been a bit higher than they were south of that line, although that has not always been the case. Although there has not been a lot of vacant lakefront land activity recently, the most recent sales we saw in the mid 2000s tended to suggest that that disparity in value was eroding fairly quickly.

But having said that, we're in the waterfront south neighborhood. This is a two story home in A minus quality in terms of its relative construction. You may recall that was an issue a couple years ago in a hearing here in which Mr. McTernan successfully argued that I was somewhat exaggerating the quality of the home. You bought that argument and you lowered the value. Subsequently I lowered by description of the house to acknowledge your decision. So thank God that's not an issue today.

The house was built in 2004. It is in generally good condition. It has a full basement. There's 2,797 square feet on the first floor, 3,773 square feet on the second floor for a total of 6,570 square feet. The house has six bedrooms, five full bathrooms. There is central air conditioning, a large attached garage and other amenities there as they're described.

The first comparable is Tax parcel Number 93-4-123-203-0050. This house is at 9987 Lakeshore Drive. This house sold for $1,075,000 in February of 2008. I want you, although I am in the habit of not describing the individual adjustments here to you, I want you to be cognizant of that first one. I mean the sale happened at a point well before the assessment date, the assessment date that we're using. And so we make an extremely large adjustment for time there of nearly $132,000. This house sits on a lot of 80 feet by 150 feet. It is also in the waterfront south neighborhood, a two story home, A quality construction, also built in 2004, also in good condition. This house also has a full basement, a small portion of it is finished including that space. We have a total living area here of 4,197 square feet. It has central air. There is no attached garage here. If you take a look at the picture which you have in your handout, there is garage space in the basement of the house. Again, taking into account all those adjustments we arrive at an adjusted sale price of $1,067,100.

Comparable number 2 is the one that Dan referred to specifically so you've heard a little bit about this house already. It is Tax Parcel Number 93-4-123-322-0055 located at 11739 Lakeshore Drive. This house sold for $850,000 in March of 2010. This house sits on a lot of 100 feet by 180 feet. Again, the same neighborhood, in fact just a few doors to the north. It is somewhat lesser quality. We describe it as being in B plus quality. A little bit older, built in 1998, although there's also a fairly significant addition done here I believe in the very early part of the 2000s. It's in good condition, full basement, 2,381 square feet on the first floor, 1,989 upstairs, so this is a total of 4,370 square feet. Five bedrooms, three full baths, again central air and an attached garage. Summarizing all those adjustments we arrive at an adjusted sale price of $964,100.

And then finally comparable number 3, Tax Parcel Number 93-4-123-172-0160 at 8723 Lakeshore Drive. This house sold for $800,000 in October of 2009. Waterfront north neighborhood. You actually see a negative adjustment for that. We adjust for location in various ways, one being in the land value, one actually being in the building value where necessary. We do that here perhaps because we have a somewhat larger unit rate that we use to value land in this northerly neighborhood. This, again, B plus quality construction, built in 2003, good condition, full basement, 1,607 square feet on the first floor, 1,689 on the second floor, so we've got a total here of 3,296 square feet. Three bedrooms, two and a half baths, again, an attached garage. Once again, summarizing all those adjustments we get to an adjusted sale price of $928,500. You average them you get to $986,600 which I think compares favorably with our assessment at $1,014,900.

Rocco Vita:

What I've handed to you is simply for the record an historical listing of the assessed values of the property through time since construction. It serves two purposes. One, it acknowledges the fact that we as an assessor's office are working on the best behalf of the property owners. Over time we reduce the value of this property from its high point in 2006 of $1,438,000. In 2010 the most recent revaluation we're at $1,014,900. It also shows that every two years we perform those market updates. If we had resources maybe we would do them every year, but the fact that we do them every two years is not a bad thing. In between we feel that the equity and uniformity of the property owners in their tax–uniformity and the equity of the property taxes are preserved, one, because of the frequent revaluations and, two, there aren't significant changes from any one year. And if they are they're essentially affecting like property owners in a similar manner.

Going back to Attorney McTernan's opening comments about the Noah's Ark case, and I do admit I don't have a degree in law, but it seems to me that if the assessor's office is precluded from making changes for economic reasons outside of a revaluation as a protective element for property owners, why wouldn't that stand for anybody else? The uniformity clause says, well, if everybody is assessed in a similar fashion using similar valuation benchmarks determined at a period in time, applied uniformly and consistently through those properties in either a neighborhood or a neighborhood group, but at least a similar residential environment, it would stand that they're all being treated in a uniform and equitable manner. And if I don't have the ability to change someone's value because of an economic reason as the assessor in Noah's Ark did not have, why would anybody else have the ability to do so? Doing so would create the–would lessen that uniformity and kind of go against that protective covenant of the Constitution that says we all have the right to uniform taxation. That's my look at it. I do admit that I am not an attorney.

John Braig:

Any questions?

Michael McTernan:

A couple issues on that point. The uniformity clause of the Constitution is to protect the government and make the government treat all taxpayers in a uniform manner. It isn't a law in the Constitution that says an individual taxpayer who has a right every year to challenge the assessment as I read your forms and as the State Statute says, the Board of Review can only hear sworn testimony regarding the value of the property. It cannot hear protests regarding the amount of taxes or questions exemption. The best evidence of the value of your property is a recent arm's length sale of your property. We're using values of properties that have transferred back in 2008. That isn't recent. And that's what provides the taxpayer the right in an off assessment year or in every year to come before this Board in saying as of January 1, 2011 my assessed value of my property is off.

Now, granted, as the market was rising no one was coming in here saying I should get my assessment raised because I'm in an off year. But in a time period where two years have gone by and I'm not here to challenge whether or not in the 2010 whether the McKeon's should have challenged that value then. Maybe they should have. I didn't have an appraisal that would have given me value as of January 1, 2010, and they didn't hire me to look at that valuation change.

But in the context of you're before this Board and what the mandate of the process that a taxpayer is required to do is to look at what value is transferred in the year of January 1 of the tax year 2011. It doesn't say go back to look at 2008. It doesn't say go look at what happened two years ago. I understand that the assessor is bound by statute that if they're going to reval they have to do everybody. That's what the Supreme Court says, that's what the Constitution says, and that's what the case law says. If they're going to reval any one person on their own they need to do everybody. That doesn't mean that an individual taxpayer has lost his right in an up year or a down year to choose recent data. And recent data is data that has transpired as we have noted happening in 2010. March of 2010 is more recent than looking at the data from back in February of '08.

So from a legal perspective I believe that the law is there to protect the taxpayers from the government, not to hamstring the taxpayer from making a challenge. And at that point the assessor would be able to use like sales obviously no different than I'm using to say what are the sales that took place around the tax year in challenge, January 1 of 2011, not January 1 of 2010. And the logic behind that obviously also is driven by the fact that you have a market in May of 2007 a median sales house occurred at $175,000 in Kenosha County. In may of 2011 it's at $124,000, median sales for Kenosha County has reported today by the Wisconsin Realtors Association. That is because that's what happening.

Now looking specifically, and I'm not here to present and represent the entire taxing body of the Village of Pleasant Prairie. I have two clients who have exercised their rights to say I believe my value is off. Maybe they were off in 2010. I'm not here to argue that. I am using data for 2011 because that's the date I'm using. The Assessor is using data in 2010. I'm not even here to challenge whether or not he was correct in 2010. He has presented no evidence to say as of January 1 of 2011 what's the value of the property. He's provided nothing. He's saying you should just look at what value we assessed on 2010 and that's the value you should stick with. Well, that's not the methodology nor what the law dictates. It tells us to look at what is the value as of January 1 in the taxable year. That would be 2011.

I understand the Assessor is feeling they have no power, and I believe that the Board of Review convened today has all the power to sit here and say what evidence has reasonably been presented and what is the value as of January 1, 2011? What evidence has been by this taxpayer to say my value of my property on January 1, 2011 is $875,000 based on my expert's opinion? I've heard nothing from the Assessor telling me what's the value on January 1, 2011. Nothing. So I believe the evidence that you solely have to decide on is based on what my client has presented. That's the only evidence before this Board. Thank you.

John Braig:

Summary from the Assessor?

Rocco Vita:

The evidence before the Board is our assessed value as of January 1, 2011 and the information that Mr. Judt provided to the Board supporting that value. The other evidence before the Board is the appraisal from the property owner, the appraisal that uses the same comparables as the assessor's office uses. The fact that our sales aren't all that dissimilar from their appraisal is false. Now, there is a dissimilarity. One of the sales used in their appraisal is from the Town of Salem, not from Lake Michigan, but from lake, do we know?

Daniel Truax:

I don't' know.

Rocco Vita:

So we don't know whether this is a pond or a dammed up river or a lake or whether it's Montgomery Lake or Rock Lake. And there's no value difference attributed to the difference attributed to location. Their appraiser isn't here to speak to that. Their appraiser isn't here to speak to the difference in the quality of the homes presented in their appraisal versus our appraisal. So I understand that this is an appraisal submitted as an indication of value to help support their position. I question whether the client had given permission for this to occur. I question whether the appraiser would have gotten permission from the client to appear and talk about this appraisal from the user's behalf.

I still feel confident that our appraiser used the sales that were relevant to this property all on Lake Michigan. And using a property on Lake Michigan with a time adjustment is in my opinion a smaller adjustment than trying to adjust for a property in a township 12 miles away without knowing the quality of that lake versus the quality of Lake Michigan, the desirability of that lake versus the desirability of Lake Michigan and yet making no adjustment for location.

John Braig:

You missed the obvious. This is Village of Pleasant Prairie, far superior to anything west.

Rocco Vita:

Well, in some instances yes and in some instances perhaps that a relative opinion. The thing about using MLS numbers on a difference in a median number is it's simply a number. It doesn't represent anything other than the data that exists. In other words we had a median sale price, but we don't know what that median sale price represented. It could have represented all low price homes. It's not like the typical–it's not giving us the indication of what a typical 2,000 square foot four bedroom two and a half bath home with a three car garage sold for. It's just saying put all the stuff in the soup and this is the middle sale price. Does that mean that just the low property sales are occurring, or just the properties in the lower price ranges are transacting? It doesn't really give any meaning outside the fact that, sure, valuations are declining.

And I will admit that when the Village does a reassessment in 2012, when it incorporates the market data that we are able to ascertain from 2010 and 2011 that the values in the Village will decline because the market continues to decline. But this value we arrived at for subject property and all the properties along Lakeshore Drive, all the properties on Lake Michigan, all the properties in the Village were arrived at in a systemic and a uniform process predicated upon actual market evidence occurring on or about January 1, 2010 and the two years prior, 2009 and 2008 and a little bit into 2010. So I feel confident that our value would stand up to a certiorari because I think we have the evidence contrary to what the opponent says. Do you have anything to add?

John Braig:

Thank you. With that we'll close the hearing and open it up to discussion by the Board.

Lena Schlater:

Mike, I have a question. I notice on comparable 5 and 6 it shows active on there. Are those just active properties versus sold that he used?

Michael McTernan:

In looking at that I saw that as well. And if you look at the appraisal they don't use those because they're just for sale and they're just I believe providing what the market is bearing right now on properties that those were made. But I don't believe those were made. Dan didn't use those as well or looked to those as having any kind of relevant value.

Lena Schlater:

Okay.

John Braig:

I was somewhat impressed with Mr. McTernan's presentation or the initial part of it indicating the requirements under the law for uniformity. I guess the question that's before us is how much weight do we give to trying to maintain uniformity, and how much weight should receive consideration for unique circumstances or factors that were not taken into consideration initially but are part of the evidence that's presented to us. In other words, have we received enough information that suggests we should deviate from the uniformity consideration?

Mark Riley:

I'd like to make a couple comments. I'll springboard from what you just said about the uniformity. What I'm hearing is it's the Assessor's job to create the uniformity. It is not the taxpayer's if I'm hearing this correctly. I think both sides have done a fairly good job of coming up with their number. Only one side is coming up with it based on 2010, the other one is coming up with it based on 2011. I think we all are in the same opinion that property values are dropping.

I think Rocco said he's sure that they're dropping. So it really boils down to what is the law, and should we be looking at this property based on the 2010 assessment, or should we be looking at from the 2011 assessment.

With us as the Board not knowing the law my first thought is we did the first group wrong not knowing. And until we know I think they should have the ability to come back. And I think at this point I'd like to hear the arguments between Tom on one side either disagree or agree with Mr. McTernan, and just hear those two kind of have it out. And if they come to an agreement then I think the Board is well advised by the legal aspect of it. But right now I don't know that I could vote either way because I'm not sure what the law is. I've heard both sides and I'm really unclear on whether we're looking at a 2010 assessment or at a 2011 assessment.

John Braig:

I think we have to be careful as we use the terms 2010 and 2011. In some respects they're synonymous and in some respects they're different.

Mark Riley:

Well, I don't think they are synonymous. I believe and it's been stated that in 2010 everybody was treated uniformly. And if Mike is right that we have the ability to come back in '11 and challenge it, and we're all agreeing that the values went down, then I would say just about anybody that came in here an challenged it and could provide the evidence would be due a decrease. On the other hand, if I want to call it the other side is correct, if we have to keep it uniform, that the law states that we've got to keep it inform, then nobody hardly that would come in here would get–so really you two let's hear you battle it out and may the best man win.

John Braig:

You recognize the basic assumption is that the Assessor is correct. Have we received–

Mark Riley:

In 2010 he was.

Lena Schlater:

This appraisal that's in front of us right now, all the comps used other than those two that were active are all–the most recent one was 3/12/2010 so it does reflect back to 2010, not 2011 like the prior one that we went over.

John Braig:

Do you have a comment, Tom?

Lena Schlater:

So the prior one we had all comps that were actually, except for one, 2011. But these here, the four that are given, we've got 1/11/2010, 3/12/2010, 10/02/2009 and 12/10/2009. So this appraisal was based on what was available at that time.

Mark Riley:

That's the question. Do you time adjust the 2011s back to '10?

(Inaudible)

Lena Schlater:

There's no adjustment made on this one here. I don't know about the prior one. I'd have to look back.

Mark Riley:

He wouldn't present a time adjustment. He's arguing that this is the value in 2011 so he doesn't need to time adjust it. If he's wrong then he should have time adjusted it. But he's not arguing to take this back to the 2011 values. He's arguing that this is the current value.

Rocco Vita:

And he's using sales in 2009 to support that, the same sales we're using. He's not saying this occurred in 2009, sold for this amount of money, but as of January 1, 2011 it's a lot less and we have to adjust that sale down for time. He's acknowledging that there is no change in time.

Mark Riley:

And coming up with a lesser value?

Rocco Vita:

That's his opinion.

Michael McTernan:

The big one in the value the Village is using is the transfer that happened in February of 2008. Months later the entire lending market crashed and all high end homes that we all know took an enormous dive. If you wanted to time adjust for February 2008 to January of 2011, almost three years, you probably could see as high as a 30 percent reduction in time.

Rocco Vita:

How much have we lowered the value from 2006 until today?

Michael McTernan:

I'm not looking at 2006. I'm based on–there's a ten percent time adjustment of $131,000 on the February 2008 value to get you to 2010. I'd say you could even double that and bring it into 2011 based on–see, I'm not disagreeing with your time adjustment based on a value of January 1, 2010. I'm saying based on a value of 2011 of January you need to take that time adjustment that you made on an '08 which may even be not even worthwhile including, but if you did you'd have to make an even further time adjustment to bring it down even farther.

Rocco Vita:

Why hasn't this appraiser made those kind of adjustments.

Michael McTernan:

Because he didn't look at that property as probably–I assume he looked at it as not valid.

Rocco Vita:

We don't know, do we?

Michael McTernan:

It's three years old.

Rocco Vita:

Well, I'm assuming he's making no time adjustment because there's no change in time, and he's not here to say otherwise.

John Braig:

Let's get back to discussion amongst the Board.

Lena Schlater:

I guess we need to go back to what Mark had said between where do we go from here.

Tom Camilli:

Sure. First of all as counsel for the Board I cannot substitute my judgment for the judgment of the Board. What I can do is try and clarify what I believe the applicable legal concepts and how the Board should apply them in ultimately coming to its decision or its fact finding today. One of the difficulties, and I think Attorney McTernan did do a good job of kind of showing that we have some kind of competing legal inferences that are at play here which certainly makes the Board's job a little difficult. I think he is correct that what we are looking at, and I think what the law requires, is that the Board determine whether the Assessor's valuation–the Assessor's valuation for this property or any property is as of–the Assessor is asserting that this is the 2011 assessment. This is the assessment as of January 1, 2011. That is the value that or the date of valuation that is at play here. So I think I agree with Attorney McTernan that the Board has to proceed with the presumption that the Assessor's January 1, 2011 assessment is correct. That is the presumption that the Board proceeds under.

However, the objector has the ability to submit as the statute says sufficient evidence to show that that valuation is incorrect. It's the Board's determination as to what constitutes a sufficient showing to overcome the statutory presumption in favor of the Assessor. I think the dispositive date is January 1, 2011. So I think the job of the Board is to look at the Assessor's methodology, explanation and processes in arriving at that January 1, 2011 value and then determine if the objector has made a sufficient showing to overcome that presumption. We start with the presumption that the Assessor is correct subject to being rebutted by the objector.

I think the Assessor had indicated in discussion of the Noah's Ark case which was also discussed by Attorney McTernan, the Assessor cannot uniformly revalue one property without revaluing all properties, and that is correct due to many different considerations, the Constitution, the Supreme Court decisions. But ultimately I think the decision for the Board is to determine whether the objector has made a sufficient showing to overcome the presumption that the Assessor's value of this property as of January 1, 2011 is correct. That's where the evidence–that's where the Board needs to weigh the evidence and ultimately come to a conclusion.

Lena Schlater:

So the indicated value by sales comparison approach that's been provided by the Assessor today says there's an average of $986,600 on the report that was given to us, correct, versus the $1,014,900. So are you saying that the indicated value by sales comparison approach that you've done as of date is $986,600 versus the other?

Ed Judt:

No.

Lena Schlater:

No, okay, then explain that to me.

Ed Judt:

You remember that when we develop our values we're using all of the sales that occur in that particular neighborhood. We may use sales of that particular style of home in other neighborhoods. We're using a much larger sample of data, a much bigger population of data. We can't bring all that to you here today. What we bring to you are a sampling of those sales, in this case three, and from those three sales we come to an indication of value. So we're not saying that it's that lesser number. Our assessment is the $1,014,000 whatever.

John Braig:

Looking at the whole problem from a macro point of view, if we were make an adjustment primarily based on economic conditions for someone that brings objection to the Board, an extension of that would be to encourage every citizen to come into the Board and ask for an adjustment based on economic conditions. And I don't think it's the intent of any part of our government system that would encourage that.

Mark Riley:

I disagree with that wholeheartedly. It's by the people for the people.

Lena Schlater:

What I was looking at, John, is the fact that if we're only able to count on the year of revals and we're still meeting every year, then what can we do in the off year as far as a Board of Review is concerned? I have been following the mentality of strive for uniformity. In the absence of any kind of discrepancies in the description or anything else that may come up and things of that nature, then I go back to the uniformity saying that we cannot change any of this for economic reasons.

John Braig:

I could see an argument that says the Board does meet annually because there are other factors and other circumstances which dictate that we should hold a hearing and a discussion on it.

Lena Schlater:

Then in those off years it should be really only if there's any mistakes in what they're presenting to us. So an appraisal can't really put a whole lot of value on an appraisal during those off years, correct?

John Braig:

I know what you're driving at. I think you'd have to modify it or adjust it for if there are some unique circumstances that are within an appraisal that should be brought to the attention of the Board.

Mark Riley:

The law from what I hear from both attorneys is this isn't for mistakes. This is for 2011, and if you believe that the Assessor's value is incorrect for 2011 that you have the right to come in here and appeal. And it would be very difficult to disagree with any property that the value went down from '10 to '11. All the rest of it you either got to make up–I mean if that's the law, that's the law. Now, if you want to refute the law go ahead and refute it. But you've explained that that's the law, that we are to look at his property value as of January 1, 2011, and did he bring in any evidence? Yes, he did. Do we all agree that property values went down from '10 to '11? Yeah, we all agree to that. so I don't know how–you can argue whether he did a good job or not and the distance that it's changed, but that's what we should be focused on if we agree with the law.

There's nothing else to look at other than did Mike bring in enough evidence to make it $800,000 versus–or $900,000 versus $1 million? Did he bring the evidence in or not? There's nothing else arguable. And, really, I don't know how the Village could argue that the old value is correct when it's old data. It was correct in 2010 because that's the date he had available, but it's not correct in '11.

Rocco Vita:

Well, sure it is. I have to take umbrage on that.

Mark Riley:

You what?

Rocco Vita:

I have to take exception to that.

Mark Riley:

Alright. How can it be correct in '11 when you–

John Braig:

. . . did make an adjustment.

Mark Riley:

–agreed that most of the values have gone down between '10 and '11 and they're going to go down again between '11 and '12? How can that be accurate? You can't make both statements.

Rocco Vita:

Making a broad statement for the Village compared to specific statements of a neighborhood are two different things.

Mark Riley:

I understand.

Rocco Vita:

The two sales that occurred in 2010, okay, so where are–one moment please.

Michael McTernan:

If I may while you're looking.

Rocco Vita:

I have it right here. I'm sorry. The two sales that occurred on Lake Michigan in 2010 were parcels 93-4-123-202-0085, waterfront property sold July 13, 2010. It sold for $627,900, but it's 2010 assessment was $553,400, so it sold more than its assessed value. It sold at a different relationship to most of the properties in the Village, so this one neighborhood maybe it is different. But that wasn't the only sale and, granted, there were only two. But the other sale, Parcel 93-4-123-322-0055 sold in March of 2010 and it sold for $850,000 whereas its 2010 assessed value was $847,100. So this–

Mark Riley:

To follow your logic–

Rocco Vita:

So this evidence here it may be what the appraiser for the property owner was thinking when he didn't make any adjustments to his sales. But we don't know because we don't know anything about this. While it was presented as evidence, we don't have any answers to any questions that we might have to really put a sound basis to using this in an comparable way.

Michael McTernan:

Whether or not the assessment value–I don't know if the assessor was wrong when he assessed those properties. They may have been off by $400,000 when they assessed those properties. You can't look at what the assessed value was to market value and saying, well, we're only off by a little so you should follow the assessment based on what sales have . . . . That is in evidence. That cannot be used to guide you.

John Braig:

The hearing has been closed. You really need to respond to our questions.

Michael McTernan:

Okay, I apologize, but I'd like to respond to Attorney Camilli's comments to supplement what he said if I could.

John Braig:

Go ahead.

Michael McTernan:

As Mr. Camilli did state and provide which I believe is the law, there's nothing that would prohibit the Assessor to bring in data in 2010 and 2011, the sales that would have occurred that would have been applicable to a valuation on January 1, 2011 and argue this is the value on January 1, 2011. There's nothing in the law that would prohibit the Assessor from presenting that evidence. They didn't. They presented nothing. So you're stuck with the only evidence before this Board is what is the value on January 1, 2011. Thomas Camilli I agree with him. He said the Board is charged with determining the value of the property in the year that it's being taxed, January 1, 2011. Evidence is closed. The only evidence before you on what the value of January 1, 2011 was Laurie McKeon's belief it's $892,000 and my expert's opinion that it's $875,000. That's the only evidence on what value is on January 1, 2011. That's the charge of this Board, nothing else. Not what was it in '10. It's immaterial.

John Braig:

I think you're getting argumentative, and I didn't see that as a rebuttal.

Michael McTernan:

I wasn't rebutting Mr. Camilli. I was supporting and flushing out what he gave as his opinion to the Board.

John Braig:

Question. Going back to what Mark was saying. Was there an adjustment made from assessed values of 2010 up to 2011?

Rocco Vita:

No. As your history shows in the handout that I provided you, the assessed value in 2010 is the same assessed value as 2011.

John Braig:

And pretty much standard across the Village?

Lena Schlater:

Yes.

Rocco Vita:

Yes. And don't let this mixed characterization occur. The information today supports the value as of January 1, 2011. It's what we're obligated to do and it's what we've done. I don't want you to think that we didn't do that. This sales evidence is no different than their sales evidence. We're all talking about the same sales evidence and it's supporting the value as of January 1, 2011.

John Braig:

As I indicated before, 2010 and 2011 in some respects is synonymous but with some differences.

Mark Riley:

Do you concede Mike McTernan's point that in your assessment you have property pre-market crash in 2008 still in your valuation and plenty has changed since that date? And he pulled that out for his evidence to bring it up to date which to me makes sense. I mean I would, too. I mean that has validity does it not? While you left it in yours he pulled it out saying, hey–

Rocco Vita:

But we made a $132,000 negative adjustment to account for that difference in time. Now, he has sales going back two years and he's made no adjustment for time. So his appraiser, even though he's not here to ask, is saying the same thing we are saying.

Mark Riley:

But he pulled the entire property out saying it's irrelevant because it's pre-2008.

Rocco Vita:

But he substituted with a lake sale in the Town of Salem, and without being here to ask what lake it's on, the quality of the lake, the relative value of the lake, it's not comparable. So I would say a property–now remember the market–

Mark Riley:

It should have less weight. It can have some weight but less weight.

Rocco Vita:

The whole body of work in my opinion should have less weight because there's nobody here to talk to it.

John Braig:

As an aside, I would suggest to the Assessor that in the future if you get any indication from an objector that they may have a separate appraisal, there would be merit in having that appraiser present at a hearing. You would do well to inform the objector.

Jane Romanowski:

They do get that information. They get the whole Department of Revenue handout.

Rocco Vita:

There are use PAP laws that says the appraiser needs the support or the permission of the client to be here. Clearly it's questionable whether that appraiser could have gotten that permission from the client. The client is the bank.

Mark Riley:

What weight do we put on an appraiser who has credentials, who has been hired by a bank, and we all know banks have really tightened up on appraisers and what they'll take and what they won't take, do we put any credibility on that or does he have to be here?

John Braig:

That's your judgment.

Rocco Vita:

I think that's a question for your attorney to advise you on.

Mark Riley:

Tom, do we put any credibility on the fact that they're licensed, certified, that these banks have really tightened it up. I think you have to go to an independent person just to get the appraiser. You can't even go direct anymore.

Tom Camilli:

I think the question goes to the credibility. You're asking me how do you assess the credibility of someone or of the information–

Mark Riley:

Do you. Do they have to be here to make them valid or can they not be here?

Rocco Vita:

There's a Court of Appeals case–I'm sorry. Maybe Tom can expound on that.

Jill Sikorski:

It's also important to know who the audience was when the appraisal was prepared, who was the intended audience.

John Braig:

Who is the beneficiary.

Mark Riley:

Well, in this case it was the bank.

John Braig:

And what was the purpose. I mean obviously market value is one thing, assessed valuation is another thing, and I'm sure there's some bias that carries through.

Mark Riley:

Who is tougher on appraisals than banks and refinances.

John Braig:

In which case they will come with a lower value. Further discussion or are we ready for action?

Rocco Vita:

I still think the recent court case in June 2011, <u>David Suchla, David Blaschko and Shelby Blaschko v Board of Review Town of Burnside</u> (phonetic) indicated when the appraiser is not here to discuss the appraisal it's impossible for them to overcome the presumption of correctness of the assessor, or that instrument can't overcome the presumption of correctness of the Assessor because there's nobody here to ask.

John Braig:

Tom, are you familiar with that case?

Tom Camilli:

I am familiar with the case. I think in this case the issue was whether the Burnside Board of Review correctly affirmed the assessment of the assessor. One of the issues that the Court of Appeals ultimately–or one of the issues that the Court of Appeals relied upon in determining whether the Board was correct in affirming the assessment was the fact that the assessment that was presented at the time of the hearing, the appraiser who prepared the assessment did not appear at the hearing to explain why he or she determined that the sales referenced in the appraisal were proper comparable sales or didn't testify to other content in the appraisal. I don't think the case says that the Board can't consider the appraisal or give some weight to the appraisal. But the Court of Appeals relied upon that fact in affirming the Board's decision to ultimately sustain the assessor's assessment based upon the fact that someone with proper knowledge of the appraisal was not there to testify. But I don't think it precludes the Board from giving weight. Again, how the Board wants to view the evidence is the province of the Board all things considered. If Attorney McTernan disagrees with any of that perhaps the Board would allow him to make his record as well. But that's my opinion of the case.

Jill Sikorski:

How much weight do we put on the $986,600. I think you had said something, if you could just evaluate that again for me.

John Braig:

I think what he's saying is we can take it into consideration. You can take it 100 percent or you can disregard it totally. I do see some merit that if that appraiser were here in our discussions and our questions we could get an idea of what bias might have existed in developing an appraisal. I don't doubt a bit that the objective of an appraisal is going to influence the final number.

Jill Sikorski:

And the $986,600 is the value as of what date?

Ed Judt:

The what?

Jill Sikorski:

The $986,600 in your report.

Ed Judt:

Okay, let me try to explain that to you again. When we go about the process of revaluing the entire community we don't complete the equivalent of a fee appraisal in the case of every single family home. We've got about 6,000 of them. It's not possible. We use mass appraisal procedures to arrive at our value, simply create statistical models essentially based on all those sales. And so when we arrive at the assessment on a particular property, it is based on the analysis that we completed in those statistical models.

I'm not going to bring a multiple regression model to you and try to describe it to you during the course of a hearing. What I'm going to do is bring you two or three comparables and attempt to justify my value based on those two or three comparables. Now, those two or three comparables may result in a slightly different value than the $986,600, but remember you're looking at an assessment of two and a half percent. We're within two and a half percent. If Mike hires ten appraisers independently to value this property today, you're going to get ten different numbers. Two and a half percent is not significant statistically or otherwise. So $986,600 or $1,014,000 take your pick.

John Braig:

Further discussion? If not we're ready for action and decision.

Mark Riley:

It's not up to us to make the assessment, is it? We agree or disagree with them.

Jane Romanowski:

If you disagree you have to place a value on the land and the home.

Mark Riley:

We do have to.

John Braig:

You have to come up with something. This is what you get paid the big bucks for.

John Burke:

I'm in agreement with Mr. Riley. The question here is . . . the methodology as to how they got there.

Jane Romanowski:

John can you turn your mic on or pull the mic down please.

John Burke:

I say I'm in agreement with Mr. Riley. The question in my mind is how they arrive, what methodology they use, if they use the '10 or the '11, and that hasn't been clear at all. So with that being said, unless proven that the Assessor is wrong, it's my understanding we're bound by State Statute that we're supposed to support the Assessor.

John Braig:

Want to put that in the form of a motion?

John Burke:

Sure. Therefore, I move to support the valuation as presented.

John Braig:

By the Assessor?

John Burke:

By the Assessor on subject property 93-4-123-322-0065.

Jill Sikorski:

I'll second.

John Braig:

It's been moved and seconded to uphold the Assessor's assessment of subject parcel. Roll call. Aye.

John Burke:

Aye.

Lena Schlater:

Aye.

Jill Sikorski:

Aye.

Mark Riley:

No.

BURKE MOVED TO UPHOLD THE 2011 ASSESSMENT IN THE TOTAL AMOUNT OF 1,014,900 FOR PROPERTY LOCATED AT 11887 LAKESHORE DRIVE, TAX PARCEL NO. 93-4-123-322-0065; SECONDED BY SIKORSKI; ROLL CALL VOTE: BRAIG – YES; BURKE – YES; SCHLATER – YES; SIKORSKI – YES; RILEY – NO; MOTION CARRIED 4-1 WITH RILEY DISSENTING.

Jane Romanowski:

Motion carries four to one.

John Braig:

Motion carries to uphold the objection. Your client is gone but she will receive the information in writing. Of course, you know what the appeal procedure is.

Michael McTernan:

And I guess maybe I need to provide the law to Mr. Camilli which because I think that may help. I agree with Mr. Camilli. I'd like to sit with Mr. Camilli and go through this law because I think this law is clearly as Mr. Camilli and I have testified.

Mark Riley:

Just to refute what you said, John, I disagree with what you say because I think both attorneys agree that it was based on 2011. I think they were in agreement that it was not based on 2010.

John Braig:

With that, we're a little bit behind so we'll try and move it.

c. 10:45 a.m. - John & Kim Humphreys

John Braig:

Are they present?

Michael McTernan:

Yes, they are, Your Honor.

John Braig:

Thank you.

Michael McTernan:

This is the same issue.

Mark Riley:

It is.

John Burke:

Absolutely.

Michael McTernan:

The same exact issue, Your Honor.

Jane Romanowski:

There is an objection form that was filed.

John Braig:

Is there one?

Jane Romanowski:

Yes, there is.

John Braig:

Would you read it into the record please.

Jane Romanowski:

Sure. This is the objection form for John and Kim Humphreys with an agent of J. Michael McTernan. Property address is 11821 25th Court. Property Tax parcel Number is 92-4-122-361-0505. Total property assessment $746,600. They explain the assessed value is incorrect because they state recent sales of comparable properties. Their opinion of the value as of January 1st would be $570,000. They purchased the property in February of '06, and that would have been the land only for $155,000. The home was built in 2009 for an approximate value of $345,000. The property has not been listed for sale in the last five years, and there was an appraisal in the last five years which was completed on October 19, 2010 for refinancing purposes, and the appraised value was $592,000.

John Braig:

Thank you. With that, may I ask the Clerk to swear in the witnesses?

Jane Romanowski:

We just have to wait for Mr. Judt.

Michael McTernan:

I guess I'm asking Mr. Camilli so we don't end up with the same issue, I don't know what the Board of Review's time line is, but I'd like an opportunity to provide a legal brief supporting what Mr. Camilli says on what the law is on what the Board of Review's job is before we go down this path again and I waste everyone's time–

Mark Riley:

Agreed.

Michael McTernan:

–doing the exact same exercise I just did stating what the evidence is as of January 1, 2011, when there's been no evidence–I'm not going to restate. But I guess I look to you for guidance because I don't want to waste your time.

Tom Camilli:

Well, I think we all agree that the crucial date is the value of the property as of January 1, 2011, and I agree with Attorney McTernan on that. I think the statute says that. I think the assessor also says that their assessment of value is of January 1, 2011. That is what they believe that property is worth. So I don't think there's any disagreement as to the date that we're looking at. I think what the Board determines is did the Assessor come about–well, the Board starts with the assumption that the Assessor's value is correct subject to rebuttal by the objector through a sufficient showing that perhaps the methodology, the processes, whatever the facts may be presented by the Assessor may not be correct, accurate or wrong in arriving at a January 1, 2011 value. And that's the fact finding credibility weighing function of this Board to determine.

Michael McTernan:

And the issue, though, Tom is, and I understand what the Assessor believes they have to do. They have to leave the value as of January 1, 2010 and bring it forward to January 1, 2011 making no adjustment, none whatsoever. And I'm saying you have to make adjustments because the law dictates you to make adjustments, and they have made none. That's the question is the property valued as of January 1, 2011 or is it valued as January 1, 2010. I believe Attorney Camilli and I agree that it's based on January 1, 2011, and the Assessor is saying we did it in '10 and we don't change it because the uniformity clause prohibits us from it. I don't believe that's the law.

John Braig:

You're making a statement, and I don't want to say I challenge it, but the Assessor is telling us that his figure for 2011 is his assessment for 2011. It may be based on 2010, but for you to present anything different you have to show where 2011 is different than 2010.

Michael McTernan:

And I did.

Mark Riley:

And he did, yeah. He certainly did.

Rocco Vita:

And I understand that he did not. He did not provide any evidence.

Michael McTernan:

Yes, I did.

Mark Riley:

I disagree. He did.

Rocco Vita:

He did not.

Michael McTernan:

I threw out the–we were refused to qualify a 2008 value before the crash which you included, I didn't, and the evidence was this is based on value as of January 1, 2011 given similar sales properties but based on what January 2011 numbers are, not what January 1, 2010 numbers are.

Rocco Vita:

The appraisal they presented–

Michael McTernan:

Not the appraisal, Mr. Dan Truax's testimony of $875,000.

Rocco Vita:

He didn't present any evidence other than his opinion.

Michael McTernan:

He did. He reviewed the comparables and presented the data and said these are the comparable sales that I came to which give a value. I'm okay to proceed. I'm just trying not to waste everyone's time. That's my goal.

John Braig:

I think we will proceed and assume the Assessor's assessment of 2011 across the community is valid even though it reflects basically the same assessment as 2010.

Mark Riley:

That statement in itself makes no sense.

Rocco Vita:

The thing is there's no law saying that we're required to adjust values in a non valuation year.

Mark Riley:

And that's correct. That is correct. But the law says that they can challenge them. You can't change them. We realize that and that's why you have to use–

Rocco Vita:

Well, what's the point of the hearing?

Mark Riley:

Huh?

Rocco Vita:

What's the point of the hearings? Why don't just people line up

Mark Riley:

Because these are agreeing that the law states that any citizen can come in here and show new evidence of a different appraisal or a different valuation and they're doing it. Their data is more current than yours. We realize you can't bring in new data.

Rocco Vita:

Why not?

John Braig:

Wait a minute, we're getting into something that's going to go on for more hours. Let's first of all agree to–

Mark Riley:

If you bring it in for one you've got to bring it in for all.

John Braig:

Let's agree to disagree on this. We've had a vote on the previous one, and assuming the arguments and the discussions are going to be identical, we're probably going to end up with the same decision a second time.

Michael McTernan:

I hope not.

John Braig:

In which the real solution is it would have to be appealed to a higher appellate.

Michael McTernan:

A higher authority, yeah.

John Braig:

So at this point where are we? Swear in your witnesses.

Jane Romanowski:

Do you solemnly swear in the matter now in hearing to tell the truth so help you God?

Voices:

I do.

Jane Romanowski:

Please be seated, and for everybody who is testifying today please state your name and address for the record into the microphone.

Michael McTernan:

Attorney John Michael McTernan, 6633 Green Bay Road, Kenosha, Wisconsin, 53142. Just some brief opening remarks.

Jane Romanowski:

Assessors?

Michael McTernan:

I apologize. You want everyone to–

Jane Romanowski:

If they are going to be talking they give the name and address into the microphone for the record.

John Humphreys:

John Humphreys, 11821 25th Court, Pleasant Prairie, 53158.

Kim Humphreys:

Kim Humphreys, 11821 25th Court, Pleasant Prairie, 53158.

Daniel Truax:

Daniel Truax, 7535 18th Avenue, Kenosha, Wisconsin.

Ed Judt:

Ed Judt, 9915 39th Avenue for the Village of Pleasant Prairie.

Rocco Vita:

Rocco Vita for the Village of Pleasant Prairie.

John Braig:

Thank you. As you can see you're familiar with what we do it's formal and it's informal. But at this point we're ready for your presentation. And let's avoid the big generic discussion regarding whether it's 2010 or 2011. What we're looking for is your comparable values or your justification for an assessment that is different.

Michael McTernan:

Just so I have it on the record, and clearly for a record for appeal, is the situation that your attorney is telling you you're supposed to look at values of property as of January 1, 2011. Is that not what you're providing them, Tom? That the value that that they're supposed to pin is what is the value of the property on January 1, 2011, not what is the value of the property on January 1, 2010?

Tom Camilli:

I believe that is correct. The assessor is presenting what the Assessor believes to be the January 1, 2011 value. So that is the date that we're looking at. And obviously it's the Board's job here to determine whether the objector has properly overcome the presumption in favor of the Assessor in its determination of a January 1, 2011 value.

Rocco Vita:

It's an assessment of January 1, 2011 by definition because it's the 2011 assessment roll, but it does have its genesis as effective January 1, 2010.

Michael McTernan:

And in that context–

Rocco Vita:

It doesn't mean it's incorrect for 2011. I'm not saying it's incorrect for 2011.

Michael McTernan:

And in that context then, and I'm trying to shortcut this so we could just have our record and move on is that there's absolutely no adjustment being made in the continued fall of the market from January 1, 2010 to January 1, 2011. Zero. If we're using numbers that were created last year, then we have made the determination from the Assessor's office that there is no adjustment if we're not looking at–because the presumption is the value in January 1, 2010 was correct. So now we're saying we're going one year forward and the values haven't changed. So with that in mind, because that's what I understand is going on, and my position is to show you that on January 1, 2011 the number is different.

John Braig:

Let me pursue a point. Let's take a hypothetical situation where the Assessor says the market's gone down, we'll reduce all assessments by 20 percent from '10 to '11. Now what's your argument?

Michael McTernan:

I look at my individual property and say did he adjust mine enough?

John Braig:

It might turn out that your property value because of market conditions is actually worth more than that 20 percent reduction.

Michael McTernan:

And if the evidence shows that then you would change it because the Assessor made a wrong assumption.

John Braig:

Other than no one would come in with that kind of an objection.

Michael McTernan:

You're right.

John Braig:

Do you have comparables?

Michael McTernan:

Yes, we do. And in that context I will just get to that because unlike the issue that I know Rocco had presented asking whether or not an appraiser was here who had done a full appraisal, there are two appraisals on this property that were done on I believe October, and again this falls in line with the drop in the market, on October 21st–let me see, what dates do we have here. The first one that I have that I'd like to present and have as part of the record that Dan Truax had prepared was October 19, 2010. I'd like to submit that as evidence in the record which I believe you guys have, don't you? I believe I gave you a copy of it.

John Braig:

Ed, Rocco, do you have a copy of that?

Michael McTernan:

Did I give you a copy of that?

Rocco Vita:

I don't have a copy. Maybe Ed has a copy.

Ed Judt:

That was the appraisal that you shared with us a couple weeks ago?

Michael McTernan:

Yes. We'll get copies for everybody. And that has a value of $592,000, and I believe the assessment as of 2010 or '11 was modified this year, and notice went out with a total value of $713,700. So I'll leave this for Jane to make copies so you can have it.

John Braig:

Wait a minute. You say the adjustment was $713,700?

Michael McTernan:

The Village Assessor modified the 2011 assessment based on evidence that was presented informally by $32,900, and we believe they needed to go further.

John Braig:

Then the figure on the objection form is incorrect?

Michael McTernan:

I apologize, what form?

John Braig:

Line 3, $746,600.

Rocco Vita:

It appears they simply used the 2010 assessed value, not the 2011 assessed value that we submitted to them.

Michael McTernan:

Because I didn't have this, Your Honor, and I apologize.

John Braig:

I keep getting promoted.

Michael McTernan:

I apologize.

Mark Riley:

So what's the assessment?

Michael McTernan:

It's $713,700, right guys?

Rocco Vita:

Yes. That's dated what?

Michael McTernan:

June 8, 2011.

Rocco Vita:

So that was sent out when we sent out all the assessment notices in the Village.

John Braig:

Okay. You've all made appropriate corrections to the objection form?

Rocco Vita:

I believe the Clerk is making copies of the appraisal report.

John Braig:

Okay.

Michael McTernan:

In addition, there was a second appraisal that I'll provide just as–

John Braig:

Let's hold up with it.

Michael McTernan:

Okay, no problem.

John Braig:

Okay, is everybody back here? Okay, no more side discussions. Let's get back to the problem at hand. Okay, we're back in session. It's in your hands yet, Mr. McTernan.

Michael McTernan:

Thank you, thank you. Just as a quick summary and opening, the clients if they had not missed a deadline they would have filed the objections in 2010, because they believe the data even back in '10 is wrong. It will make your job a little easier because they believe if you even look at their numbers they're wrong, bringing current they're even incorrect in 2011, even greater. I'm going to have the client go through and present the details of the comparables of the construction of this property to give you an idea, much as Mr. Riley recalled, the modifications that were done on the McKeon home in certain materials that were used that would bring down value based on grade. So with that, I'm going to have him go through the details of the description of the house that he constructed and paid for.

I'm not looking at the cost approach, so what the cost of construction was to build this house, because there are comparable sales we can look at to make modifications and provide with what the fair assessed value is as of January 1, 2011. But in that context if we start with the information on what he paid for the lot, when he paid for the lot and what he paid to construct the house on the property in the mind of the objecting party it sets the baseline of why the Assessor is off, not just in the overall assessed value, but we have comparable sales that Dan Truax who has done an appraisal on the property, is here to testify, can answer any questions on the appraisals that you have in front of you.

There were two done, one in '09 and one in–in October I believe '09 and one in October of 2010, both that provide values around $570,000 to $590,000. But in that I'll turn it over to John to have him provide information on what he paid for the lot, when he paid for the lot and what he paid to have the house constructed as a starting point. John, if you could start with that that would be helpful. What did you pay for the property when you bought the lot back in–is this the right one?

John Humphreys:

I think $165,000 was the original purchase price of the lot.

Michael McTernan:

And then what did you pay to have the improvements built on the lot?

John Humphreys:

I think it was a total of (inaudible). So what is that, $340,000.

Michael McTernan:

$340,000. And can you go through the details of the house you constructed in comparison to the other homes that are in the Tobin Woods Subdivision and compare and contrast to the other properties that are in that property, because those houses, there are some sales that took place that we're going to use to compare against.

Jane Romanowski:

Please make sure you use the microphone so it can be picked up. Thank you.

John Humphreys:

Just so you have a little perspective, I mean we lived in one of the homes that sold earlier. It was a really high end home. It was actually a model we used to help sell some of the properties in Tobin Woods. It was decked out to the gills. It was from a cost standpoint and taxes standpoint something that we wanted to deliberately try to downsize and build something so we could live in a longer term situation. So the home we built, in my opinion, in Tobin Woods I think is very modest compared to the rest of the homes in Tobin Woods.

Here are just some of the differences or changes we made when we built the second home. We deliberately used a builder grade of Marvin Windows versus just really high end windows in almost every house in that subdivision. I think we might be only one of maybe two or three homes in the subdivision that doesn't have an all masonry exterior. We used a composite material on most of the home, and we have a little bit of trim of cultured stone, a very modest exterior. Things like our decking we used green treated wood. We didn't do any special decking. Most of those homes in Tobin Woods have extremely elaborate stone and patio systems. We used concrete for patios and things like that.

The construction was two by four. We didn't use I-joists or anything like that, two by ten joist system. The siding on the home was all particle board. There was no plywood anywhere on the home, again, with this idea that we wanted to be in a very affordable home. All of the interior trim material is composite, not real wood. We used bath module units in all of the bathrooms except for the master bath versus natural stone and tile surrounds, very modest. We used prefinished wood flooring throughout the home on the first level versus professional finishing. There's no terrazzo or marble entryways. We used laminate flooring in some parts of the home, in the mud room and laundry room versus tile flooring.

The staircase, most of the staircases–I don't want to say most, but a lot of those staircases in Tobin Woods are custom staircases, very expensive to build. We used a carpenter built carpeted staircase in that home. There's no library, there's no wet bar, there's no screen porch. There's one non masonry fireplace that's gas. Most of the landscaping we did ourselves. We did have some professional landscaping done, but comparatively to the other homes in that subdivision very modest landscaping. No sprinkler system, no intercom system. So we deliberately tried to build a home that was very modest in comparison to the home that we had come from and were expecting to see I guess an assessed value something far different than what we're seeing.

I can tell you, too, another thing that when we first, and probably negligent to us we didn't get on this right away when we had to get our appeal in for the first I guess contesting of this, but part of what made my eyebrows go up is when I saw assessed values of comparable homes in our subdivision I almost passed out. We are the only home in our subdivision that is assessed over $200 per square foot. In fact, we're assessed at $225 per square foot. I just did a simple math of all the other homes and the square footage and what they're assessed at, and the average assessment in that subdivision comes in at $125. So we're not even in the ballpark for the size of that home. We built a very small home with the idea that it would be affordable and it would be a much different tax base.

So that kind of us why I think I've had conversations with Ed over the phone. We've had a lot of debate back and forth. And I guess that's why we're here today is we don't feel we're being taxed at the right level. In addition to that, as Mike mentioned, we've had a couple appraisals done for the original financing of the home as well as a refi. Both of those came in in the $500,000, which again I think I'm a pretty reasonable person, but it just seems crazy to me that we're being taxed at over $700,000 for what I would consider–it is the smallest home in the subdivision, not to mention the fact that in my opinion compared to the rest of the homes in there it's very modest in terms of construction. That's really the summary of why I'm here today.

John Braig:

Mr. Humphreys, just one point. You gave us the figure of $225 per square foot.

John Humphreys:

Correct.

John Braig:

What numbers were you dividing out to accomplish that? Does that reflect the total assessment against the total square footage of the house?

John Humphreys:

Let me just do this real quick. The original assessment was $746,000. That was based on our 3,590 square feet I think or was it 3,300?

John Braig:

But in effect you're taking the total assessment and dividing it by the square footage of the house?

John Humphreys:

Total assessment divided by the total square footage.

John Braig:

Total square footage.

John Humphreys:

Yeah.

John Braig:

Okay, thank you.

Michael McTernan:

Now, in that calculation it drops down to about $200. When you look at the modification it's about $200 a square foot.

John Humphreys:

So with the modification it comes in at $200 now.

Michael McTernan:

Now, in that context I know the Assessor has certain values allocated to that property given the fact that there's some improvements in the basement, but explain what your basement is like?

John Humphreys:

It's a finished basement. I mean it's drywall, studs and carpeting. There is a bathroom down there. There's a couple of rooms we divided off. It is not elaborate by any means. And comparatively to the other basements in that subdivision most of the other basements are extremely well finished with extremely nice materials. This was built for kids. It's more a rec room type finish. But we did finish off a decent part of the basement.

Michael McTernan:

As a comparable sale, the most recent sale in Tobin Woods besides the house that you bought and purchased to construct around $500,000, do you believe your property is assessed at what–or should be appraised–what is the value of your house that you have placed on the house?

John Humphreys:

I think $550,000 to me would be about what we might be able to get. I don't even know in today's market we'd be able to get that to be honest with you. There's been houses for sale on Tobin Woods for years trying to sell. There's been foreclosures in there. There's nothing that would make me believe I would ever be able to get more than $550,000 for that. And that's also based on some of the other homes that I've seen sell, not necessarily in Tobin Woods because there aren't any comps, but there's other sales in other subdivisions with very similar construction homes that are selling for a fraction of what we're being appraised at.

Michael McTernan:

Now, in Tobin Woods–

John Braig:

Excuse me, I need a clarification. On the objection form you're stating that your opinion of the value of the property on January 1 of this year is $570,000. You just said $550,000. Are you looking at today's value versus January 1?

John Humphreys:

January 1, $570,000. What is the question? What do I think I could sell it for today or on January 1?

John Braig:

There's a discrepancy in your numbers. You said $550,000 and $570,000 so I'm looking for clarification. $570,000 is your stated opinion on January 1?

John Humphreys:

Yes, and that if–

John Braig:

Are you saying that $550,000 represents today?

John Humphreys:

I am. I think $570,000 is kind of where we were at, and I've seen since then even more drop in the market. So if I were to say today what reasonably do I think that house would sell for I might be able to get rid of it for $550,000 is what I'm thinking.

Michael McTernan:

That changes. Obviously, you're just testifying as the market continues to slide from January 1, 2011 at $570,000 and looking at June of 2011 that now you'd be happy with $550,000?

John Humphreys:

I wouldn't be happy, I'm just being realistic. I mean it's tough times out there.

Michael McTernan:

Now, you're very involved and obviously you know the details of the house that you built. The last property that sold in that subdivision that you have records for was purchased by Greg Santarelli and what did he pay for that and what was the date of that transfer?

John Humphreys:

It was probably, and I don't have exact dates, but it was probably close to two or three years ago. It may have been pre when the market really went down, but he purchased the house in the $600,000's on the corner of our subdivision for a house that comparably is a much, much nicer home.

John Braig:

Is that house listed as one of the comps?

Michael McTernan:

So you're saying that house is nicer than yours?

John Humphreys:

Absolutely.

Ed Judt:

Really?

John Humphreys:

Absolutely.

Ed Judt:

You've got to be kidding.

John Humphreys:

I'm not.

Kim Humphreys:

Wow, what are you comparing?

John Braig:

Let's hold on. The question is is it listed as a comp?

Michael McTernan:

Hold on one second.

John Humphreys:

Honestly I don't know how things get on the comps.

Michael McTernan:

It's not on any of the appraisals.

John Humphreys:

It's a bigger home. It's over 4,000 square feet. It's all masonry exterior. It's decked out.

John Braig:

You can see, though, when you look at the comps there's lots of factors and we look at each one.

John Humphreys:

I understand.

John Braig:

You're getting into subjectivity whereas we want to look at concrete data.

Michael McTernan:

The concrete data is the details of that house that Santarelli purchased how big is that house?

John Humphreys:

4,699 square feet.

Michael McTernan:

Compared to your house?

John Humphreys:

3,590 I think.

Michael McTernan:

And he purchased that house back in 2009 for how much?

John Humphreys:

I don't have the exact sale price. I think it was $600,000 and–

Ed Judt:

Can I give you some detail here?

John Braig:

What have you got, Ed.

Ed Judt:

Let's go back to the size of the house. The size is 4,699 square feet.

Michael McTernan:

Now, which house is that, Ed?

John Braig:

You have the Santarelli data there?

Michael McTernan:

What is the size of that, Ed?

Ed Judt:

Parcel Number–let's just go back. Parcel Number is 92-4-122-361-0501. The address is 11878 25th Court.

Michael McTernan:

And size is 4,000–

Ed Judt:

Whatever I just said.

Michael McTernan:

4,699.

Lena Schlater:

But it's not one of the comps?

Michael McTernan:

It's not one of the comps.

Ed Judt:

And just to be clear the sale price was $660,000 in October of 2008. The seller was First Banking Center. This was a foreclosure.

Michael McTernan:

But I bring that up as an October of 2008 sale. I know our appraiser will talk to that. In the last hearing we were looking at a February of 2008 sale and it was relevant. I understand it's in a foreclosure. I understand that it sold, willing and able buyer at $660,000 and it's a house of over 1,000 square feet. And what are the differences in that house just to provide some of the details of the comparables of that house that you know of–

John Braig:

Let me hold up. Per chance is this one of your comps?

Ed Judt:

No. I did not treat this as a valid sale.

John Braig:

Proceed.

Michael McTernan:

What's the assessed value of that house? What is it, just curious.

Ed Judt:

It is now $666,700.

Michael McTernan:

So very close to the purchase price. And, again, you paid $500,000 for the house and you're assessed at–

John Humphreys:

$713,000.

Michael McTernan:

And, again, the details of that house?

Kim Humphreys:

I know right off the bat there's all Brazilian hardwood cherry floors throughout that entire first floor master. They have a very high end custom staircase in that house. All those bathrooms have beautiful stone surrounds–

Ed Judt:

Beautiful fiberglass inserts.

Kim Humphreys:

They are not.

Ed Judt:

They are.

John Braig:

. . . presentation. You've got a rebuttal coming.

Kim Humphreys:

They're at 4,700 square feet. We're at 3,500. Right then and there they're assessed $50,000 lower than we are.

Ed Judt:

That will all be addressed in a minute.

Kim Humphreys:

They're all masonry exterior. They have patio systems. Their patio system is all paver brick, all knee walled patio systems in that house. You can go on. It's just beautiful.

John Humphreys:

If I'm buying a house and I walk into that subdivision and look at that house versus–there's just a huge inequity in my opinion, huge.

Michael McTernan:

In that context I know not that it's indicative of the value of your house, but there is a property that has been for sale, and how long has that house been for sale at 11922 24th Court? That's in your subdivision, correct? It's listed at $889,400. And, again, the differential is obvious, and how long has that been on the market?

John Humphreys:

I don't know the exact, Mike, but it's been on the market for a long time.

Michael McTernan:

Shifting gears now to Dan Truax, our appraiser, I'd love him to testify as to his comparables that he's looked at in the marketplace and come up with an opinion as to value as of January 1, 2011 given recent sales in the marketplace.

Daniel Truax:

Okay, when we pulled up comparables for this property–

Michael McTernan:

Does anyone need his credentials again?

John Braig:

No, they're good.

Michael McTernan:

Alright, thank you.

Daniel Truax:

When we pulled up comparable sales we were looking at significant salient futures of the house primarily, square footage was mentioned. The house is a little bit smaller for the subdivision. It's on the modest side. That has a direct impact on the value since it appeals to a significantly different market. Square footage is usually quite large out in that subdivision. So to do that we went to neighboring areas, pulled comparables that were extremely close in square footage, also of similar quality of construction across the board. So we found properties that sold from $500,000 up to $662,000 was our highest sale that we found. All of them within about 300 square feet, no more, as far as the sale, so very comparable.

The subject property does have a finished basement. Typically basements are usually not finished to the same quality of construction, so normally we don't include them in the gross living area as an upgrade anyways. But we compared them to properties that similar to such features and then made adjustments accordingly if they did not. So the value we came in on the appraisal side back in October was for $592,000. If we're looking for the date as of January 1st we wouldn't have had a sale at our disposal that took place after the appraisal, actually the collection of the appraisal. It's property 10271 Cooper Road. It's very similar square footage. It's 3,575 square feet. The subject property is 3,590 square feet. That property sold for $435,000. We were also the appraisal company that responsible for the sale of that property back in '08 I think it was. I don't have it in front of me. Subsequently it was sold for $590,000 I believe back in that time. Anyways, that property sold for $435,000. The value we came in in October was $590,000. Had we had that comparable available when we were doing our data collection it probably would have been closer to the $570,000.

Since there was no specific comparable sale within the subdivision that we felt relevant, we didn't put a specific value on any certain property to reflect the value of the subject. We used a weighted method. It's not an across the board average. We gave most weight to the properties that were most similar to the subject, and that's reflected by the gross adjustments, and those were given the most weight and subsequent less weight accordingly. That's described in the text addendum in the appraisal that was provided to you on how we attributed those values and came up with the $592,000 on the October appraisal.

Michael McTernan:

And as I'm understanding post doing the appraisal of October 19, 2010, this additional sale came in which would have provided further evidence to bring the value down even further, and that's where the $570,000 value comes in.

Daniel Truax:

Yes, because of that weighted method, it would have attributed to a lower impact. I don't know if we can reference the previous case that we had before. They had a sale in '08 that was a million dollar sale, and they averaged the three sales that skewed the number to a higher value because it would have brought the average up significantly. This would have brought the average down even though the weight of the average–I don't know how comparable through a breakdown it would have been compared to the other sales used, but it would have brought the value down.

Michael McTernan:

Thank you. That's it, thank you.

John Braig:

Is the Assessor ready for their presentation?

Ed Judt:

Absolutely. Again, the property under appeal is Tax Parcel Number 92-4-122-361-0505 at 11821 25th Court in Tobin Woods Subdivision. The 2011 assessment is $713,700. It breaks down this way, $220,100 to the land, $493,600 to the improvements. The other side has already alluded to the fact that there are no comps, there are no one story ranch comps in Tobin Woods. In fact, I think this is the only ranch that exists in the subdivision. Am I right? Yeah. So you're going to see comparables from other places as was true with regard to Dan's appraisal as well. In Creekside, a small new subdivision a little bit south of here on 39th, as well as Meadowdale, and we'll throw in a Tobin Woods two story comp as well just to give you a sense of value in the subdivision.

But we're dealing here with a one story ranch home that I'm now describing as being A minus in terms of the relative quality of the construction. John and I, as he suggested, we had a conversation about the quality of the house. And he at that point suggested that this might be the lowest quality house in the subdivision with the possible exception of actually the first home that went up in the subdivision. So I looked at that one. Fearing McTernan's ability to convince all of you that I'm over describing these houses, given that it was one increment of description I was willing to accept that change, and I went from an A to an A minus, and that resulted in the reduction in value that you're considering today. So I don't want to be disingenuous and suggest that we lowered the value based on sales activity or economic concerns. It was based on a simple change in description in an attempt to give the appellant the benefit of the doubt with regard to the quality of their home.

A minus quality built in 2009, good condition. In terms of the size of the house the first two comps are ranches with finished basement anyway so we are dealing with apples and apples here. So I'm going to look at these in terms of their total size. You've got a full basement here with 1,906 square feet finished. Now, John can diminish the value of that space all he wants, but you've got two bedrooms and a bath down there in addition to what he's describing as a rec room. This is living space. It's not paneling on the walls with beer signs hanging on them. This is nice space. And Kim's laughing because she agrees with me.

John Humphreys:

I have a beer sign.

Kim Humphreys:

There is a beer sign down there.

Mark Riley:

Is there a bar down there?

Kim Humphreys:

No, no bar.

Ed Judt:

So 1,906 square feet of it finished. We've got 3,133 square feet on the main level. Add those two together and you have 5,413 square feet. In addition to that, you've got a small area finished upstairs. You actually do have a second level. I'm describing it as finished attic. It is not a bedroom. It serves as an office presently, but it's just a small finished space inside the roof of the home. I'm sorry, I should restate that. Including that 374 square feet you come to a total of 5,413 square feet.

You've got a total of six bedrooms here, three and a half baths. Again, we're describing the exterior here as a combination of masonry and frame. We're describing the three comparables that way as well. I mean I think if you look at the pictures, the first and the third comparables, I mean relative to the total perimeter of the exterior wall here are pretty similar to the subject. The exception would be comparable number 2 in Meadowdale that truly does have an entirely masonry front, although I'm not making any adjustments for that here. I'm describing them all as being relatively the same. Large garage, 1,254 square feet. There's a deck and a patio here as well as an 18 by 36 in ground pool.

Comparable number 1 is Parcel Number 92-4-122-253-0604 at 3877 114th Place. Can you get that one up? This one sold for $537,500 back in April of 2010. This is in a small four lot subdivision called Creekside Hill. This lot is actually right on the corner of 114th Place and 39th Avenue. We've got this thing as being described as being A minus in quality as well. It was built in 2007, good condition. This house has 2,040 square feet finished in the basement, along with a main level of 3,035 square feet. You've got a total of about 5,075 square feet. In terms of the lower level finished, first floor size, you've got a house fairly comparable at least in size to the subject property.

I've bedrooms here, four full baths. Actually the garage size is misstated there. That's one of the garages. They've actually got rather than a three car garage they've got two separate garages attached to the house, one a two car and one a three car, and I missed that size there. But three garage spaces attached to the house here as well.

John Braig:

Is your adjustment is correct, though?

Ed Judt:

The adjustment is correct, yeah.

John Braig:

Thank you.

Ed Judt:

Comparable number 2, as I said, is in Meadowdale Estates Subdivision. It is Parcel Number 92-4-122-231-0427. It's at 9591 42nd Court. This house sold for $537,000 back in September of '09. It is a ranch home, A minus in quality, built in 2004, good condition. This house also has a full basement with 1,557 square feet of it finished under a first floor of 2,827 square feet. So you've got a total of 4,384 square feet. Four bedrooms, four full baths, attached garage.

And then our last comparable, and I wanted to give you one example of what I believe is the most recent truly arm's length transaction that's occurred in the subdivision. And, incidentally, this was the home that John described earlier that they sold. So this is Parcel Number 92-4-122-361-0512 at 11947 24th Court. This house sold for $1.15 million in January of '09. This is in Tobin Woods Subdivision, same subdivision as the subject property. This is a two story home. Acknowledging that this house is pretty quality than the subject, describing it as being A plus in terms of relative quality. It was built in 2005, good condition. This house, full basement, also has some finished living area in the basement. 2,430 square feet on the main level, 3,012 square feet upstairs, so including that finished basement space you've got a total here of 7,174 square feet. You've got six bedrooms here, four full baths, two half baths, large attached garage, porches and patios in the rear.

So when you sum all of those various adjustments you end up with a range of adjusted sale prices that range from just under $700,000 to about $987,000, and those average to $794,800 on an assessment of $713,700. Having done both of those first and second comps, and I know the Humphreys have worked very hard this morning to try to diminish the quality of the house in your eyes, but I think it's very comparable to those first two comparables but in a better location and on a much more desirable lot. I think our assessment at $713,000 now is entirely appropriate.

John Braig:

Question on comp 2. I'm looking at the photograph. It's hard to discern what the roof line is, but is everything we see in that picture part of that one structure?

Ed Judt:

Yeah.

John Braig:

It almost looks like there's got to be some sort of a valley between two roof lines.

Ed Judt:

Oh, comparable number 2. yes, the brick stops at the far left side of the picture. Is that what you're alluding to.

John Braig:

I'm looking at the roof line. It seems like you've got two separate roofs. It must be the camera angle that throws it off, but we're dealing with one structure there.

Ed Judt:

The area that you see at the far right is the attached garage.

John Braig:

Okay, good enough. We've had both presentations. Any rebuttal or questions back and forth.

Michael McTernan:

I do, Your Honor, and I'll have my appraiser speak to it that there's over a $100,000 adjustment for comparable 2 which is in the opinion of the appraiser who testified to it in Meadowdale Estates which is as desirable of a neighborhood as there is in all of those in Pleasant Prairie. I look at that value and I look at that transfer that occurred at $537,000, yeah, very similar property of comparable 2. Very similar location. It's in Meadowdale Estates just like Tobin Woods.

Yeah, it's right on. $537,000 that's a very comparable sale. And i disagree that you can take the Tobin Woods area and the Meadowdale area and say there's a $100,000 differential in value.

Moreover, I look at comparable 3 it's assessed at $813,000 based on the eyes of the Assessor. It's a house that is significantly larger than the subject property. You're comparing apples to oranges. Then on comparable number 1 another $100,000 adjustment for comparable 1 which is in a cul-de-sac in an incredibly wooded, secluded area very similar to Tobin Woods. I'll let my appraiser speak to those issues because I look at those and see that the enormous adjustments being made, the $537,500 for comparable 1 for $537,000 for comparable 2 are very comparable to the subject property. And the adjustments made bring it out of whack.

More importantly or equally to add to that on comparable number 1 there's a full walkout basement. The property is on a hill and it walks out in the back end of the property below grade in the back but it's a full walkout. The properties that the Humphreys have they have two rooms that are in a basement with window wells. Different animal and different allocate values to that, but I'll let the appraiser talk to those issues.

Daniel Truax:

Regarding Meadowdale and Tobin Woods marketability I would have to disagree with Ed as far as the Tobin Woods being superior. Tobin Woods is suffering right now from a little bit of an issue of buyers coming in because there's only one egress entrance and egress from the subdivision, and it doesn't have its own private entrance. I don't know if that's being stalled or not for development, but it has a little bit of an issue that way. Meadowdale's values, even the lots themselves are more of a flourishing subdivision, more desirable. And they have right now a lot larger influx of buyers, whereas Tobin Woods has stalled out significantly for arm's length transactions. The lot prices are comparable between the two subdivisions. If not, like I said, Meadowdale being more desirable at this point.

Michael McTernan:

Also the brick exterior, you can talk to that.

Daniel Truax:

Quality construction was similar on all of them. Obviously Meadowdale is a little bit superior as I had mentioned with it being full brick. I do agree with the Assessor that comparables 1 and 2 are extremely close in comparability and should be used. The reason why we didn't use anything from Tobin Woods Subdivision was because there wasn't anything significantly comparable. I know he used number 3 to demonstrate the marketability of Tobin Woods. But, again, you'd have a different typical buyer looking to purchase that property than would be the Humphreys because it's a different appeal. Again, that number being so significantly different $537,000 to $1,150,000 is as an appraiser we wouldn't give that any consideration because it would be an apples and orange and wouldn't be considered as a comparable property for the very reason that it skews the number when you're averaging.

Michael McTernan:

That’s it.

John Braig:

Assessor any question or rebuttals?

Rocco Vita:

Do you have anything?

Ed Judt:

No.

Rocco Vita:

I’m just looking at the two appraisals submitted by the property owner. Both done for financing. The one submitted was as of October 21, 2009 with a value of $570,000. Sales comparison approach and a cost approach of $647,572. The client in this instance was Fairway Independent Mortgage Corporation in Kenosha. The second appraisal was done by Mr. Truax who is with us today. As of October 19, 2010 it has an estimated value by sales comparison approach of $592,000 and a value as if by a cost approach if developed by $679,600. I guess, Mr. Truax, when is the cost approach to value most applicable?

Daniel Truax:

New construction where no depreciation physical or economic is applied.

Rocco Vita:

So in this instance this is new construction?

Daniel Truax:

No. The subject was built in 2009. When I say new construction pre-permit as far as occupancy, occupancy permit.

Rocco Vita:

On the appraisal here it says the actual age of one. Does that mean–

Daniel Truax:

Actual age of one year.

Rocco Vita:

One year?

Daniel Truax:

Yeah.

Rocco Vita:

Okay, so you're saying there's how much physical and economical depreciation in the one year?

Daniel Truax:

Well, economic is significant because as you can see by the cost approach if you were to take the land, build a house, it comes out to $679,000 per our price per square foot and lot sale prices.

Rocco Vita:

So show us in your cost approach where you took that economic depreciation?

Daniel Truax:

First of all, as you've mentioned, there's a discrepancy between a cost approach value and the sale value, significant one. The physical depreciation is we're given a 65 year effective age, out of 65, so we're not showing a physical depreciation, a marketable one at that point. But as I mentioned the one year versus a new construction is this, especially in this market right now, properties that are already constructed are selling for a significant decreased price than if you were to go out and build your own house. So a property right now it's value is based on most weight was given to the sales comparison approach.

Rocco Vita:

So this property had more value before they built it?

Daniel Truax:

To the buyer, yes.

Rocco Vita:

Where do you show your economic adjustment again in this cost approach?

Daniel Truax:

The economic adjustment?

Rocco Vita:

The economic depreciation.

Daniel Truax:

The economic depreciation. We didn't put an economic depreciation, we put a physical depreciation.

Rocco Vita:

So you didn't apply economic depreciation?

Daniel Truax:

No, there's not a place. Not only is there not a place, but economic depreciation applies to land. land doesn't depreciation as far as a cost approach. You can't depreciate the land.

Rocco Vita:

So if land doesn't depreciation, why would economic depreciation apply to land?

Daniel Truax:

In a cost approach we're not having economic appreciation. We're doing a cost approach. How much does it cost to build a property and what is the value of that property to build, not to sell.

Rocco Vita:

So you're saying a cost approach is best used when a property is new. This property is one year old, and your cost approach indicated $680,000, yet your sales comparison approach is $592,000.

Daniel Truax:

Yes, if the Humphreys were to come to me and ask me how much would it cost to build my house, I would develop a cost approach and it would probably come out to about $679,000 on a new construction house. If they want to sell the house once the built it, I'm expecting them to return about–

Rocco Vita:

That's what this represents, what it cost to build?

Daniel Truax:

That's what it represents.

Rocco Vita:

What it costs to build?

Daniel Truax:

What it costs to build given the fact that they don't have a physical economic–I'm sorry, physical depreciation, and it wasn't given relevance in this approach–or, I'm sorry, in this appraisal. This approach was not given–

Rocco Vita:

So how did you take into account–I know earlier–

Daniel Truax:

I'm sorry to interrupt, but as you can see it's a continuation of I can't speak for the other appraiser, but the other appraisal as well has a significant discrepancy between price of the sales approach and the cost approach.

Rocco Vita:

The discrepancy is noted as being relatively large. I know his opinion of site value is $170,000, in your opinion the site value is $135,000.

Daniel Truax:

Yeah, mine was based on a sale. I can't speak for his. Sometimes they go off of the assessment. Mine is based off of a sale that took place on 98th Street in Pleasant Prairie, 6/25/10 that sold for $135,000. It was not used through the extraction method but an actual sale.

Rocco Vita:

So we have an older appraisal saying $570,000 and an appraisal one year newer saying $592,000.

Daniel Truax:

Well, 2009 and 2010 probably had a different marketable.

Rocco Vita:

Yeah, I would say. Secondly–

Daniel Truax:

And also–

Rocco Vita:

Secondly, I have a question about the quality of construction which the Humphreys really talked about when they gave their presentation. You look at that appraisal, the first appraisal done in 2009, where would that appraiser acknowledge the difference in quality of construction between the Humphreys home and the comparable properties?

Daniel Truax:

More than likely on a sales grid.

Rocco Vita:

Okay, but can you explain to the Board where on the sales grid?

Daniel Truax:

The sales grid, it will be the page, it will be the section, it should be on quality of construction.

Rocco Vita:

Okay, and I'm looking at this and I don't see any difference in quality of construction between the subject property and comparable number 1 or comparable number 2 or comparable number 3.

Daniel Truax:

In my report or in the other appraiser's report?

Rocco Vita:

In the other appraiser's report.

Daniel Truax:

I don't have it in front of me.

Rocco Vita:

And when I get to comparable number 4 which is on page 7 of a property in Tobin Woods that sold for $1,150,000 in January of 2009 which is our third comparable, I don't see acknowledgment–

Daniel Truax:

(Inaudible)

Rocco Vita:

–of an adjustment for quality of construction.

Daniel Truax:

That's why anything like that went into my report. I disagreed with it.

Rocco Vita:

Why didn't this appraiser acknowledge a difference in the quality of construction?

Daniel Truax:

I can't speak to his competency or–

Rocco Vita:

I'm speaking to it because there isn't a great deal in the difference in the quality of construction. Maybe there's some but there isn't.

Daniel Truax:

It was huge.

Rocco Vita:

You were there.

Daniel Truax:

No, no, I'm talking about for the quality of construction–first of all, you're looking at 3,000 square foot property to a 5,000 square foot property.

Rocco Vita:

What does that have to do with the quality of its construction?

Daniel Truax:

Well, first of all, I didn't inspect the property, but I'm assuming if–

John Braig:

We can't take an assumption.

Daniel Truax:

Okay, that's fine. Here's the thing, the quality of construction is right here. He didn't make an adjustment for it but there is an inferiority. He's got a cement board stone versus brick, stucco and stone. There's a discrepancy that he did make a marketable adjustment for.

Michael McTernan:

John, you know the house, what's the difference?

John Braig:

Hang on–

John Humphreys:

First, I read to you describing some of the things we cut out of our second home. We built both of these homes, and I will tell you that we did not cut one corner on that first home. That home had every high-end upgrade detail and every building detail of that house from bottom up. Like I said in the list I read to you and I'll read it to you again, all the things that we cut out building the second home to be more modest, be more affordable to build, be more affordable to pay taxes on and all that, are absolutely different in this home.

Michael McTernan:

What kind of cost did it cost you to build the difference between the two would you speculate based on that house just exterior construction alone?

John Humphreys:

We've said it was more than half.

Rocco Vita:

Let me ask you another question. When you get to the–

Michael McTernan:

And you built both homes?

John Humphreys:

We did.

Michael McTernan:

Alright.

Rocco Vita:

Let me ask you another question. When you get to the basement and finished rooms below grade, here again the property owners indicated that it's simply low quality finish and nothing of any great extent. On the appraisal done in October of 2009, I see that under that portion, basement and finished rooms below grade, there is some adjustment for the differences between the property of $4,000, $10,000, $2,000, but then again in number 4 there's no adjustment for the difference in the quality of the construction of the finished basement. I'm trying to understand what the adjustments are for.

John Humphreys:

If I can speak to what was in the basement of that first house, that first basement had a wine room, it had a custom built bar that was probably $30,000 to put in, it had a masonry fireplace in the basement, it had marble floors in the bathroom down there, it had an exercise room. It was a beautiful living space decked out.

Rocco Vita:

Was this appraiser in your house?

John Humphreys:

I would assume he was or she was. I don't know who it is.

Rocco Vita:

Was she in your house?

Kim Humphreys:

Yes.

John Humphreys:

I'm assuming she was, yeah.

Rocco Vita:

And she acknowledges there's no difference in quality between your finished basement and comparable number 4?

Kim Humphreys:

Oh, was she in the 11947 I don't know.

Rocco Vita:

No, I asked if she was in your house?

Kim Humphreys:

She was in my home, yes.

Rocco Vita:

She was in your house, but she acknowledges no–she makes no adjustment to that sale based on the difference in quality between your two houses?

Michael McTernan:

Maybe it was a mistake, we don't know.

Kim Humphreys:

Yeah, I don't know.

John Humphreys:

I can't speak for her.

Michael McTernan:

We're not giving a ton of weight to–

John Braig:

You refer to an appraisal of October, 2009.

Daniel Truax:

Yes.

Rocco Vita:

I'm saying this is what they presented as evidence.

Michael McTernan:

As part of the evidence, but it's also indicative of a value of a property they're saying is comparable to ours. And the direct testimony from the persons that built both houses are saying there's a huge disparity.

John Braig:

That's a subjective statement, though.

Michael McTernan:

I think it's been very objective that he said he spent $30,000 on a bar. He has marble in a bathroom floor. He has vinyl in a bathroom in his basement of his existing house. What other–I mean it's not subjective at all. It's very objective.

Rocco Vita:

We can ask Mr. Truax about his appraisal. On here you provide adjustments for the difference in quality. You provide quality of construction adjustments for comparable number 1, $2,500, saying that the subject property has more quality than comparable number 1.

Daniel Truax:

No. Here's how we prepare our appraisals.

Rocco Vita:

You do it differently than others?

Daniel Truax:

Everything is subjective. You can only fit so much in these spaces to describe what you're making adjustments for. So in the quality of construction there's two things. There's a grading of a property and also the construction material used to build the house. So the Humphreys' house had a cement composite exterior siding. We described it as masonry. Then there's stone which I know is also a masonry product but it's a superior product. And then we gave it as a unit of comparison as an excellent quality. So those are the things, the external construction material and then the grading of the material, the complexity of the house and so on.

So with that being said all the properties that we utilized were comparably similar in the quality of construction, talking about complexity and so on. The adjustments were made for the exterior materials. So if there was a brick property compared to masonry to stone we applied a $5,000 adjustment in saying that the brick was superior. Again, that's an adjustment that's applied to a typical market viewpoint for that quality of construction for that house.

Rocco Vita:

So on your comparable number 5 that's in Tobin Wood.

Daniel Truax:

Yes.

Rocco Vita:

I had that here and now it disappeared. I just want to get my bearings.

Daniel Truax:

That's the one that's listed for sale.

Rocco Vita:

So here you acknowledge that there's a difference in quality of construction of probably your bigger difference of $5,000 because–so here you're saying comparable number 5 is a better quality to the tune of $5,000 in comparable than the subject property?

Daniel Truax:

We gave a $5,000 adjustment for the quality of construction, yes, for a listing that hasn't sold. We gave it a–

Rocco Vita:

Well, regardless you're describing the quality of the construction of the property.

Daniel Truax:

Correct, we found it to be comparable.

Rocco Vita:

Well, the quality of construction, it's a nice home, that property sold, I know it's an older sale, sold in November of 2007 right at the beginning of the decline for $1,050,000. But further when you go further down can you tell the Board how you came up with–you have no adjustment for the finished basement. So are you here saying that the finished basement in this comparable number 5 is similar to that in the Humphreys property?

Daniel Truax:

I'm not saying that it is similar. I'm saying I didn't make an adjustment. With any of these comparable sales we don't have access to them. We can only go on the description of what's provided.

Rocco Vita:

So you've never seen the comparable properties from the inside?

Daniel Truax:

From the interior I have not seen that property.

Rocco Vita:

But you can make adjustments of the quality of the construction and the components of the basement without taking a look at them?

Daniel Truax:

Based on the description that's provided to us we make adjustments accordingly to the information that we have. So if they've got a rec room, bedroom, bath and so on we make adjustments accordingly.

Rocco Vita:

So you make adjustments but you're limited by the information you have?

Daniel Truax:

We're limited by the information we have.

Rocco Vita:

It's a similar process to ours. We describe the properties. We make adjustments to the differences in the homes. We make adjustments to differences in all the components of the home like you've seen. The adjustment for the land which is significant as the property owners suggested is the difference in the land values. It's a straight land for land. If we're saying this is the value of one piece of land, this is the value of another piece of land, on a comparative basis the land adjustment is the difference between those two land values. But the big difference between our method and a fee appraisal method is that our office is able to get inside every property and describe that. Here their expert indicated that he has not been inside these comparable properties, and the information he's using to make his adjustments are limited. Our information isn't quite as limited.

Let me ask you one thing, though. This might help. What is the difference between a fee appraisal for financing purposes and an assessment for ad valorem property taxes?

Daniel Truax:

You're asking me what's the difference between how you perform a value and we do?

Rocco Vita:

Yes.

Daniel Truax:

Because I can't speak for you. We base value on typically sales of a property. We find the quality of construction, salient features whatever they may be, the age of the house, the location of the house in other cases compared to specific individual sales to the best of their comparability.

Michael McTernan:

Let me just clarify. He wasn't in comparable number 5 that is listed as a for sale property, but he has been in other properties, and he has been in other properties that is described because he's done appraisals of them. I know he doesn't have the benefit as you guys have to be in every property that you assess, but in the context of these he has been in a number of these properties.

Rocco Vita:

Did you ask for permission from the clients to appear today on behalf of the property owner?

Daniel Truax:

Did I ask permission from the–

Rocco Vita:

The client.

Daniel Truax:

From the lender? No, I didn't. But I performed the appraisal and was asked to give my opinion based on what I feel my opinion of the value for the house was.

Rocco Vita:

Do you have any idea how–are you constrained for financing purposes to attach values to areas below grade? I notice that you don't include that in your square foot of living area.

Daniel Truax:

Well, two things. One is if there is a constrainment for any kind of lending. But also, two, it's also my opinion that they should not be valued as the same above grade, above grade as below grade for multiple reasons. One, the expense to built and, two, when you're dealing with value the definition of value that we're held to, I'm assuming you're held to the same, is what a typical price of a property is expected to get from a typical buyer and seller. And if a bank is only willing to lend for certain ways on a house, 90 plus percent of homes are purchased through banks and lending institutions. So, therefore, you're directly impacted by such guidelines as to what a house could be worth because you're impacted by their guidelines.

Rocco Vita:

I think we agree we value the finished basement living area at a much lower percentage than the first floor because it's finished basement. But according to the Wisconsin Property Assessment Manual, we do provide values to sub grade living area, and it's a different value than to something called rec room, and it goes to the quality of what's down there. We might have the same–our goals might be a similar goal in that we determine an estimate of value, but we determine them for different purposes. And for financing purposes there are different constraints and different rules, and for property tax purposes there are laws and guidelines by the Department of Revenue that we follow. There clearly just–there simply is a difference.

I think all I'll say today is that the appraisal that was provided that was done in October 2009 in which the property appraiser is not here and did not provide any information as to why he made no adjustment to the quality, he's treating the Humphreys' home as just as quality of a home as the one on 11947 24th Court that sold for \$1.1 million that the Humphreys sold. In the eyes of this appraiser they're the exact same quality of house. He's not here to say otherwise. He's not here to say why. He's not here to say anything. And we have Mr. Truax here and his value is higher than the older value. And he says–and he's given us his reasons for that. But, again, he stated he hasn't had the ability or he's limited in his ability to make his adjustments because he hasn't had the benefit of walking inside these homes to really take a look and see what it was that sold for the price that it sold for. Well, my staff has. That's all I have to say right now.

Michael McTernan:

And the only closing is that I know we talked about cost. Cost, obviously we're there to give you some value of what they spent on the house. I know Mr. Truax provided some information on what it would cost to build that house. But as you know the standard is the best evidence of value is arm's length sales transaction. Mr. Truax added to his statement that with the given recent sale that happened after that appraisal was provided for the Humphreys the value of the property has dropped down and that's where the value of $570,000 is. That's what we believe it is. That's (inaudible). Thank you.

John Braig:

Closing summation?

Rocco Vita:

Do you have something on closing?

Ed Judt:

I think we've covered it all.

Michael McTernan:

Same her your honor.

Rocco Vita:

I would say an off the cuff comment saying that, well, I know when this appraisal occurred my value would be X should be given as little weight as possible by the Board.

John Braig:

With that we close the hearing. Open it up for discussion amongst the board.

Jill Sikorski:

I have a question about the value of the land on the Assessor's worksheets compared to the appraisal that Mr. Truax did. Maybe the Village Appraiser and Mr. Truax can address the large disparity that I'm seeing in values.

John Braig:

The assessed value for the land is not indicated.

Lena Schlater:

Yes, it is.

John Braig:

Where is it? That's the adjustment.

Jill Sikorski:

Right, okay, and then on the appraisal–

John Braig:

In other words, we're dealing with the absolute assessment. We're looking at the adjustment that was made to reflect the difference.

Jill Sikorski:

And then if you look at Mr. Truax's the adjustments are much lower. I'm just trying to find out what the philosophy is between why there would be such large differences.

Rocco Vita:

For property tax purposes because we put this on the assessment roll as the indication of land value based on land sales at the time, we have to feel confident that that's a contributory value of the land. So if there's a difference between one property and another in its land value, that's the difference, that's the adjustment for that different size of land, the different location, the difference in the size, the difference in the attributes. It's a one for one adjustment.

John Braig:

Well, stated more specifically, if there is a difference I assume there's a mathematical formula?

Rocco Vita:

It is. It's based on the units rates used applied to the square footage or the front feet depending and then adjusted by those adjustments.

John Braig:

You mentioned two big variables, front footage and total square footage.

Rocco Vita:

Some lots we value on a width basis and some lots we value on a square foot basis, it just depends on the subdivision or the neighborhood. But all the lots in–

John Braig:

What your discussion here suggests is you're relying totally on square footage.

Rocco Vita:

In this instance these properties, all these properties, are valued using a square foot approach to valuing the lots. The lake frontage we use a width format as you've seen in an earlier case.

John Braig:

I can buy that. Well, on the subject property we've got something in excess of an acre of land, almost an acre and a quarter. The others are closer–

Rocco Vita:

If you look at the 2011 assessment for the land value for the subject it's $220,100. And then if we look at the land value for comparable number 1, can you get that for me on your comparable number 1, so comparable number 1 ending in 604 has a land value of $119,000. So if I take the subject of $220,100 and subtract the comparable of $119,000 the difference is $101,100. That's how we make the land adjustment between the two properties. It is a simple mathematical adjustment going through the difference in the value of each lot.

John Braig:

In effect what you're looking at the numbers with some minor rounding, you're saying that comp 1 the land value is half of what the subject value is, and the land size or total square footage is approximately half of what the subject property is.

Ed Judt:

And in this case because it is in a different neighborhood you are right if you're suggesting that it takes into account both the difference in size and the difference in location.

John Braig:

That was an area that I was looking at and I was thinking, gee whiz, a lot half the size is that worth half as much? There's other factors that go into lot value.

Mark Riley:

I think we had determined in one of our–

Rocco Vita:

But the unit rates used in each one is the same.

Mark Riley:

It's the same dollars per square foot.

Rocco Vita:

Same dollar per square foot in each one of them. There's just a difference in size and maybe a difference in whatever else.

John Braig:

Well, let's hold these in the same subdivision, same area. Is it reasonable to say that a lot twice the size of another lot should be assessed at twice the value or double what the previous other lot is?

Ed Judt:

No.

John Braig:

I think we agree on all that because obviously if we went out in a rural area a parcel land of one acre with a house on it would not or an assessment on a parcel with five acres of land and the same house on it wouldn't have a land value of five times the first site.

Ed Judt:

And we will, I mean you know in a subdivision particularly in a larger one we'll look to see what the typical lot is. That will be our basis and we'll make adjustments for size to lots that are larger or smaller than that typical lot. We'll make adjustments for a lot of other things, too, location in the subdivision and whatnot.

Rocco Vita:

At one point the lots or parcels in Tobin Woods were selling for a great deal. We used the sales in Tobin Woods to set that unit rate in Tobin Woods. Again, going back, in the last revaluation the land values declined rather dramatically.

Michael McTernan:

They never changed, that's part of our argument. They went from $220,000 for the lot value of assessment and they're still $220,000 for the lot value and there's been no adjustments for the land.

Rocco Vita:

In the last revaluation we declined land values by 30 percent based on the newer sales–

Michael McTernan:

Not this lot.

Ed Judt:

In 2010, yeah, the unit rate, the base unit rate that we used went from $5 a square foot to $4.25 a square foot.

Michael McTernan:

That's the issue. We don't believe there's value of $220,000 on this lot.

John Braig:

Further discussion?

Mark Riley:

I just want to bring up in one of our earlier times we did have this discussion on lot values, and if a lot can only handle one house it's not a one-to-one ratio in square footage. So in this case you would have to say one place is more desirable than the other if you put it on a one-to-one ratio. That's your only other variable. You're not changing the per square foot variable, so you have to change another variable which would have to be the value, the perceived value of the location.

Ed Judt:

Well, no, I don't agree with that. I think there is potentially a different value related to size other than the fact that you might be able to site a second house there. I mean when you look at subdivision sales–

Mark Riley:

But that's what came up. Could you subdivide that lot, and if you can't then it is subject to only one house which lowers its per square foot value as their lots get bigger.

Ed Judt;

You mean your value per square foot goes down as your lot gets bigger.

Mark Riley:

As long as it can only hold one home and cannot be subdivided.

Ed Judt:

I would agree that that.

Mark Riley:

But we have a one-to-one ratio right now which the only way you can change the value is by the perceived value of the location.

Ed Judt:

Where is the one-to-one ratio?

Mark Riley:

You have a half an acre at $100,000, you have an acre at $200,000, I'm just using rough math here, so it's a linear per square foot change, so now you got–

Ed Judt:

But you don't. I mean in the first and second comps we used you have a parcel here that's, you know, I mean effectively almost twice the size of the two comps.

Mark Riley:

Right, and if you look at the value per square foot they're equal. And really that's not a linear equation, that is a digressing value as the lot gets bigger, and in this case there is no digression in value so you have to say that it's twice as valuable to be a buyer in Tobin Woods than Meadowdale.

Ed Judt:

No.

Rocco Vita:

Well, Meadowdale–this Creekside here where we have the same unit value, that unit value is based upon the sale of that lot or those lots at that size. The fact is that these values in Tobin

Woods where those values were based upon the sales of those lots in Tobin Woods. And when you start saying, okay, now we're going to compare whether they're going to be worth more or worth less among themselves you forget that both those unit values were set independently of each other.

Ed Judt:

The last lot that was sold in Tobin Woods tell me if you agree was Gaibe?

Kim Humphreys:

Agaibe.

Ed Judt:

Agaibe. What did that sell for?

Kim Humphreys:

I want to say it was around $220,000.

Ed Judt:

$231,000. Yeah, the question is obviously rhetorical.

Kim Humphreys:

What year was that?

Ed Judt:

It was late 2007.

John Braig:

Square footage?

Kim Humphreys:

Before the tanking–

Michael McTernan:

How big is it?

Kim Humphreys:

It's pretty comparable.

Michael McTernan:

50,000 square feet, but the same thing if you go to 2007 in Meadowdale lots there were selling for over $200,000 each and they're only 28,000 square feet. We agree they're comparable lots in comparable subdivisions they have dropped as well and we're looking at there's $100,000 strictly in the land that's overassessed.

Rocco Vita:

Well, I disagree with that comment. The assessor's office has to disagree with that comment.

John Braig:

So noted.

Mark Riley:

Just in face value I would disagree with it also, but there should be some digression on the value of the land.

Rocco Vita:

One of their appraisers said the value of the land was $170,000 or $190,000.

Mark Riley:

Which one, the one that's here or the one that's not here that we're not paying attention to?

Rocco Vita:

I don't know. I get confused.

John Braig:

Further discussion? I guess the question is have we been present with enough evidence to uphold the Assessor's assessment? Or, have we seen reason for modification? Come on here, you're paid the big bucks.

Lena Schlater:

I move to uphold the 2011 assessment at $713,700.

John Braig:

Is there a second?

Jill Sikorski:

I'll second.

John Braig:

It's been moved and seconded to uphold the assessment of said parcel. All in favor indicate by saying aye.

Jane Romanowski:

You need a roll call vote.

John Braig:

I do it all the time. Roll call. Aye.

John Burke:

Aye.

Lena Schlater:

Aye.

Jill Sikorski:

Aye.

Mark Riley:

No.

SCHLATER MOVED TO UPHOLD THE 2011 ASSESSMENT IN THE TOTAL AMOUNT OF $713,700 ON PROPERTY LOCATED AT 11821 25TH COURT, TAX PARCEL NO: 92-4-122-361-0505; SECONDED BY SIKORKSI; ROLL CALL VOTE: BRAIG – YES; BURKE – YES; SCHLATER – YES; SIKORSKI – YES; RILEY – NO; MOTION CARRIED 4-1 WITH RILEY DISSENTING.

John Braig:

> You've heard the decision and, of course, you know what your recourse is. Thank you. With that, with the indulgence of the next objector, we're going to take at least a ten minute break. We haven't had lunch and we're only three hours behind. So we'll reconvene at quarter to two.

Mark Riley:

> John, he's been sitting here a long time, and I don't think his is going to take that long.

John Braig:

> Wait a minute, let's see. Steve, let's have a little discussion up here once. I know you've been waiting.

(Background Discussion)

Mark Riley:

> You've sat here a long time. I think it would be courteous–

John Burke:

> I am going to recuse. Steve and I go way back.

John Braig:

> Are you ready to go? Let's go.

d. 11:15 a.m. - Mills Holdings, LLC

(NOTE: John Burke recused himself from this hearing)

John Braig:

> I guess we're ready. Steve are you ready? Okay, with that the next item on the agenda is the objection of Mills Holdings. Is there a properly completed objection form?

Jane Romanowski:

> Yes, there is, Mr. Chairman.

John Braig:

> With that I'll ask the Clerk to read it into the record please.

Jane Romanowski:

This is the objection form for Mills Holdings, LLC. The property address is 9500 Sheridan Road, Tax Parcel Number 93-4-123-192-0101. Total property assessment is land $145,600, building $47,500 for a total of $193,500. Mr. Mills explains the value is incorrect as he says the house is vacant and scheduled to be burned by Chief Guilbert, therefore, it has no value. the land cannot be used residentially in the future due to the fact the parcel has no sewer, therefore it should be valued as agricultural land like the majority of the parcel. The opinion of Mr. Mills of the fair market value as of January 1 would be $50,800. It was purchased in September of 2004. No remodeling. The property has not been listed for sale, and there has not been an appraisal in the last five years of the property.

John Braig:

Thank you. With that I ask the Clerk to swear in the witnesses.

Jane Romanowski:

Do you solemnly swear in the matter now in hearing to tell the truth to help you God?

Voices:

I do.

Jane Romanowski:

Okay, please have seat and state your name and address for the record.

Steven Mills:

Steven Mills, 4011 80th Street, Kenosha.

Ed Judt:

Edward Judt, 9915 39th Avenue for the Village of Pleasant Prairie.

Rocco Vita:

Rocco Vita for the Village of Pleasant Prairie.

John Braig:

Okay, Mr. Mills, I guess we're ready for your presentation.

Steven Mills:

Thank you. This really sums it up to some degree. This is a property that our family owns, has a house probably about 100 years old. I got a notice from the Village last year, last fall, that we had to hook up to sewer, and it's quite a run in to get to the subject property. The house is really not salvageable. We had some people who have lived there. We basically got a bid to tear it down. And then I got to thinking about Chief Guilbert needing practice, and so I've talked to him and we're doing an asbestos analysis now. We'll unhook the wiring and natural gas and so forth and so on and he'll burn it for practice.

I talked with our property management people downtown. I think we still have actually the tenant who has stuff still there, but it's really–they're nice people but I don't know how they could live in the house. So we decided to take it off once we've got this set to get burned. It's a bit of a process to get that approved by the Chief but we're undertaking. So I all I did really was say that the value of the structure of $47,500 is really a liability, it's not an asset because we're going to have to pay to have the asbestos and detach the various utilities, etc.

I looked at the spreadsheet from the assessments from 2010. I think that was attached, and looked at what I had put in as the proposed 2011 market value. The discrepancy is–because the house was there allocated 1.79 acres on this site of being worth $104,000. And in this market or almost any market in the last few years a site there was certainly not worth $104,000, especially because this house was on it. It's not our intention to go and put another house on it. It's out intention to plow it up and plant corn on it. Some day when the market comes back we have some other land holdings there that there will be a development some day. But the land valued at $104,000 I believe is inappropriate, and $47,900 is really not a habitable house that's going to be burned down.

So I was asking for consideration that the whole property instead of being valued at $193,500 once we take the house off and adjust the residential land to what would be their agricultural forest holding because there's some trees on it and in combination of some grade to some of the yard would be farmland that the value would be $50,800. Thank you.

John Braig:

Thank you. Question to the Village Clerk. In a situation where the Fire Chief is going to burn down a building, are there some legal documents between the Village and the property owner?

Jane Romanowski:

I have no information on that. I have never dealt with it. It goes right to the Fire Department.

Steven Mills:

I have a stack of information - permission, liability, asbestos abatement, so forth and so on. And we're trying to get somebody to do the asbestos abatement at this time.

John Braig:

But in effect you as owner have to sign something saying, Chief, it's yours and there's all kinds of caveats and conditions and liability clauses, etc., etc. Have you entered into those types of agreements?

Steven Mills:

I am in the process prepared to. I need to get someone to do the asbestos because he won't burn it until I get that report.

John Braig:

Because what's in the back of my mind is we're talking today's date. We're talking a 2011 assessment date of January 1.

Steven Mills:

Understood. I'm just saying to you that I think the value of the structure was the same January 1 as it is today and that's zero. And the same way with the land due to the fact that lots in Meadowdale aren't selling for $100,000. It I think should have the same value as the balance of that property.

John Braig:

Okay, good enough. With that, is the Assessor ready for his presentation?

Rocco Vita:

We are.

Mark Riley:

While you're handing that out, there's different numbers on my sheet than what you just said, Steve, about the land value and the building value. My sheet says $145,600 on land and $47,500 on building. Is that what you have? I thought you spoke differently.

Steven Mills:

I believe the total assessment on the whole parcel is–

Mark Riley:

It's $193,500, I think that was the same. But the breakdown between land and building–

Steven Mills:

Up above on this sheet there's a breakdown–it's got 1.79 acres as assessed value of $104,800, and then it shows the improved value which would be the house at $47,900.

John Braig:

That's not on the paper that we have.

Jane Romanowski:

The objection form reads different.

Mark Riley:

We don't have that second sheet, Steve. We just have the front one. That's okay, I just wondered why the difference.

(Background Conversation)

Ed Judt:

And I think I can address that in a minute. The reason between the difference in assessment and the value that Mark was asking about is obviously we have a number of different land classifications here. Agricultural land what we now term undeveloped land, what we used to call swamp and waste, you have a copy of the property record card there so you can see that. It's a document that looks like this.

Rocco Vita:

After the pictures that would be existing, and that's the current existing record and land values as found on the assessment roll of 2011.

Ed Judt:

So we're going to–and so agricultural land what we now term undeveloped land and so forth are not assessed at market value. They're an exclusion to that constitutional rule. And so we don't–I think Steve chose to ignore that for purposes of his presentation to you, and for the most part we're gong to, too. So when you look at the document you have from me, the four page appraisal that you typically receive from us, you'll see that we're dealing there, too, with only the residential component of the property description, both the land and the building.

With regard to the building, remember that this is not a condemnation. We haven't told Mr. Mills that he has to take this building down. He's doing that by choice. So as of January 1st of this year that building was still standing there. He can choose to tear it down this year or he could choose to rehabilitate it if he wanted to. It is still a salvageable dwelling. And we're treating it as such.

So, having said that, let me refer you to our sales grid, the third page of that hand out. Once again, subject property is Parcel Number 93-4-123-192-0101 at 9500 Sheridan Road. Again, the residential portion of this property is 1.79 acres or at least we were so describing it. We're going to talk about that a little bit more momentarily. We placed this property in what we call our rural and highway associated neighborhood. That means that we're driving our value primarily from sales of homes on what you would think of as the primary thoroughfares in the Village, places like Sheridan Road, Green Bay Road, Highway H, Highway 165, Russell Road, 116th Street, the list goes on, and we do that for obvious reasons. We think that there is at least some detriment to value associated with being on a busy thoroughfare like that, and we want to capture that in the value.

So this is a one story home. We describe it as being D plus in relative quality. It was built in 1920. It is in poor condition. I did walk through this house. Okay, it's a two story home, I take it back.

Steve Mills:

One and a half I would guess.

Ed Judt:

One and a half, yeah. But you'll see that, though, in the side descriptions. When did I walk through this house? I walked through this house back in June of 2007. So poor condition, full basement, 927 square feet on the first floor, 696 on the second floor, so you've got 1,623 square feet here in total. There are four bedrooms and one bath. Asphalt exterior, no garages, no out buildings here any longer. You see a picture of the house there that I actually just took yesterday.

Comparable number 1 is Tax Parcel Number 92-4-122-262-0025. This house is at 5037 Springbrook Road. This house sold for $172,000 in April, 2010. It sits on just under an acre. Again, we have this one in that rural and highway neighborhood, D quality, built in 1940. This house is in average condition. This house as a cedar exterior and there is a detached garage.

Comparable number 2, Tax Parcel Number 92-4-122-243-0455 located at 10025 39th Avenue, you'll recognize this house as being the one that's just one door south of the Village Hall. This house for $170,000 back in May of 2008. It sits on just under three quarters of an acre. It is in that same rural and highway neighborhood, D plus quality. The effective age–the house was actually built in 1930, but we've assigned an effective age because of remodeling that's occurred over time an effective age of 1940. This house is now in fair condition. It has full basement. First floor is 1,512 square feet, second floor 791 square feet for a total of 2,303 square feet. Vinyl exterior. This one actually has hot water heat, not forced air, no air conditioning. Their garage space is in the basement, but there is no regularly attached garage or any significant outbuildings here.

Our last comparable, comparable number 3, is Parcel Number 91-4-122-074-0550 at 8234 104th Avenue. This house sold for $185,000 back in April of '08. It sits on just under half an acre.

This is in a different neighborhood, although it is on a thoroughfare, that being 104th Avenue or Highway HH south of Highway 50. This is what we term our old Village neighborhood. D plus quality. The house was built in 1910. It was partially remodeled a couple years ago. We've got an effective age on this thing of 1946. It's in average condition, full basement, 1,304 square feet on the first floor, 602 on the second for a total of 1,906 square feet. Stucco exterior and a detached garage.

So you sum all those adjustments we're in a pretty wide range here from about $123,000 to about $182,000. That averages to $159,700 on our assessment of $152,700. That covers the residential component of the value. Rocco is going to talk to you a little bit about the remainder of the property description.

Rocco Vita:

As Mr. Mills alluded to earlier, a majority of the property is being farmed. It attains a use value pursuant to the Wisconsin Statutes in a 1996 law change allowing for preferential property tax treatment of property that's actually being used for an agricultural purpose. In fact, the definition is the predominant use of a property needs to be agricultural. So I gave you some pictures of the property to give you a better sense of what we see. I have it up here on the screen or in front of you.

This is the property in its totality. And if you refer to the property records, 2011 property records with the word existing on top of it in yellow, you'll see that we have four different statutory classes as defined by the Wisconsin Property Assessment Manual and by State law. The first one, the residential portion, I think you can look at on page number 3. It gives you an indication–our records here indicate 1.179. On this aerial here I drew a polygon that's about 1.185, very similar to what the appraiser used when he first determined that this is the land that we're going to value at market value as supporting the house. So this land supports the house. This land is not being used in the agricultural process so we're precluded from attaching agricultural value to it. It's not forest, it's not swamp and waste, it's at market value.

Secondly, the undeveloped portion, there's four acres listed, if you stay on this page you'll see just to the north of the property there is a low area here. It's topographically low and a creek running through it, but mostly it's low. We call that wasteland. And, secondly, to go back to the larger picture we might have some areas out here that are kind of low and unproductive, but in total what had been carried on this record is four acres essentially of undeveloped or wasteland, not necessarily swamp but wasteland.

Secondly, we were carrying and valuing 52.22 acres as agricultural land. Now, you can see on page number 1 which land is actually being used for the agricultural purpose. It's that lighter colored land in between the tree rows. But if I go to number 2 you'll see that I've delineated that land. And even if I take into account and not take out the area for the tree line, you can see that in actuality there are 38.119 acres of agricultural land. So by law and by definition this is the amount of land, the 38 acres, that should be receiving the preferential property tax treatment pursuant to the ag use law.

And then you can see number four or the fourth land description is ag use forest. And you can see there are four acres valued at $5,000 each. Ag use forest is again another preferred property type that gets preferential treatment under Wisconsin Statutes and it's the woods. You can see here at the time, for whatever reason four acres are classified, and yet you can see in the back portion of the property there are more than four acres. Once you realize that there aren't 52 acres of agricultural land, there are only 38 acres, there's another 14 acres that needs to be reallocated on this property because there still is 62. There are only 62 acres.

So what I've provided for you then is in the new, this is the new description, something that you the Board has the authority to do is to correct the assessment roll in light of the information that Steve has brought to us and I brought to you in the form of these aerial photos. What actually is occurring is that if I look at picture number four, here's a better indication of what would be used today using the Property Assessor's Manual as the land that would be at market value. You can see I drew a polygon on the land that's not used for farming, but I stopped short of where the topography changes and goes down into the gully, that portion to the north. So this land here is relatively flat.

At one point in the back northwest corner was a little shed, and that's probably why this parcel goes out that far in the tree line. But this area here would be at market value, and this is 2.577 acres. The undeveloped would remain the same at four acres, but the agricultural land would be changed from 52.22 to 38.119 based upon this delineation here. And that would provide a value of $9,300. And then lastly the other acres would be allocated to the agricultural woodland here, again, at 50 percent of value, that's at $5,000 per acre for agricultural woodland. And so that would present the 17.3 acres of $86,600. So based on current State law and this aerial photograph and the classification of land for this purpose, we would have a value that you could endorse today and change in the assessment roll a land value of $221,100.

So we've done two things. One, what we've attempted to do is support the fact that our value on the house, which was housing habited as of the first of the year, and our description does indicate it's in poor condition and Ed was at the property a few years ago; and, secondly, we've updated the description to be accurate and correct for January 2011.

I think in your packets I did provide a breakdown. I know I gave you the two different, but maybe it would be easier to see–here we go. You have that in your packet. You can see existing and new and you can compare and contrast the two, how we moved some of that agricultural land which really was misclassified as agricultural, and I cannot tell you why that was, and moved it to what was proper based on those drawings that I've just shown you.

John Braig:

Thank you. Questions, comments?

Steven Mills:

Comments I guess, a couple. Number one, this is new information for me, the back page, okay, so I guess I'd take that under advisement. I'm not quite sure that the agricultural forest use, if you look at that map that it's wetlands and there's a creek going through it. I don't know what you would ever do with it on the back side of the piece. I don't know if that's a way of getting even here or what. But bottom line is that there's a letter from Pleasant Prairie saying that the house can't be habitable unless I hook up to the sewer. I'm past that bait and, therefore, the house isn't per se habitable or I'm in violation.

Mark Riley:

What was that date?

Steven Mills:

That's last fall, and that's when we told the tenant that they had to move. I have it in file. It came from over on 31, Highway 31, the office there.

John Braig:

Public works, utilities.

Mark Riley:

Do you rent the house?

Steven Mills:

No. I mean we stopped renting it. It's really not even in habitable condition.

John Braig:

You have someone that occupies the building now?

Steven Mills:

We have someone who is hanging out there because we said until we burn it down they could be there, but I don't have the heart to charge them rent. And better have them there than kids breaking into it. So that's point one. Two, I don't know how–I'm in the real estate market every day. And whether it's 1.79 acres or whether it's 2.5 acres on that site with no municipal water, no sewer line, it's not such that you could carve it off because there's not a certified survey map of it. That's a stand alone parcel that's part of 62 acres. To say that you could get $117,000 for that today or going back to what it was assessed at, to say that you could get $104,800 today for that piece is - I should be growing marijuana there because you'd have to be smoking something. It's just not possible today. We bought lots in Devonshire, full great subdivision next to Meadow Wood for $41,000 apiece. I mean in Meadowdale I don't know if they're hitting $100,000 even anymore even if there's any selling.

So to say that site, at 1.79 or 2.4 has value of $104,000 just isn't right. These comps that are used are fine but I assume these houses are habitable, and the subject property isn't. You want me to sign something today that says it will never be occupied, that I'm entering into an agreement with the Chief I'm glad to do that. I suppose it could get to a point where it was prohibitive to do that then I'd take it down with somebody coming in and taking it down and take it to a landfill. Small matter, but I just don't think it's right and that's why I'm here today. I appreciate your time.

John Braig:

Rebuttal? If not, we'll close the hearing.

Rocco Vita:

Well, we're valuing the property as if it can be inhabited with the caveat that it's in poor condition. The property assessor's manual requires that we have different classifications. If land is not being farmed we can't classify it as farmland. It has to be classified at market value. If it's marshy and wet it's at swampland. The woods, the ponds in the back, the creek, I don't know, on one hand someone says, look, there's a pond and there's a creek back there and I can't do anything with it. On the other hand someone says, ah, there's a pond and a creek back there, it's my kind of place.

But it's an addition to farmland and that's why we treat it as such, agricultural forest. It's valued probably less than what it could have obtained. The Village was just donated a piece something like this on a piece of land that sold in the south part of the Village and 8 acres or some acres was donated to the Village. The appraised value on those acres, admittedly those acres were adjacent to 47th Avenue, a portion of it, they went the other way, it was a rather large value that the appraiser here in town attached to those 8 acres. Here, these acres–Mr. Mills would not be able to create a parcel exclusively of those back woods because it would be land locked. So he would simply try to determine what the market value is for those 62 acres and what that rear land contributes in the eyes of the property owner knowing that they could site a home, well, based on where they want to put their driveway and how long of a driveway anywhere they want, but they still come out on Sheridan Road.

John Braig:

With that I'll close the hearing and open it up for discussion. I have a question. Is there any disagreement with the date of the letter, not specific, but prior to January 1, 2011? The letter stating that you must connect to sewer?

Rocco Vita:

What letter is that?

John Braig:

The letter requiring sewer connection.

Rocco Vita:

Did you get a letter? I didn't see a letter.

John Braig:

I didn't get it. Mr. Mills says there is one.

Steven Mills:

I'm under oath.

Rocco Vita:

I know. How can–okay, I'm sorry. You're asking me–

John Braig:

Mr. Mills has made a statement that he got a letter last fall. Do you find that acceptable, because we can verify it without too much difficulty.

Rocco Vita:

I think if you're going to put it into evidence you should have a copy of the letter. That's my opinion, but you have an attorney here that can provide you that kind of guidance.

Tom Camilli:

You're able to take Mr. Mills' testimony and give it whatever weight you wish. Obviously we don't have the letter. He's testified he received it, and the Board can give that any weight or deference that it chooses to do so.

John Braig:

And the reason for my questioning that is if Mr. Mills did receive a letter prior to January 1 and made the decision not to make the connection, and the Village has told him he can't rent the property out without that sort, I would say that that's a condition that existed on January 1 of this year.

Mark Riley:

It all depends on how much time they would give him to make that–they might say you have to do it, and Steve can come back and say, okay, I'll get it done in 9 months.

Steven Mills:

There was a time limit. I'm sure I'm outside of it just because we said we're not going to deadhead a sewer line in there.

Mark Riley:

But you did have the option to run.

Steven Mills:

Yup.

John Braig:

I agree with you, but one other factor is if there's a time line, let's say you've got 90 days to comply, if he elects to sell the property rather than mess with it and you as a potential buyer are going to buy it, you will discount the sales price by your estimated value or cost of extending the sewer line.

Mark Riley:

Not necessarily, I might increase it. Why do you assume that?

John Braig:

Because I can reflect on one such incident in my neighborhood where the sale price–

Mark Riley:

Yeah, I know.

John Braig:

Common sense says if you've got to spend X dollars to bring something up to a usable level you're going to adjust the sales price. Not thing as a buyer and not a seller.

Mark Riley:

You really can't make those assumptions because the back property might be worth a lot more, John.

John Braig:

We're talking just the residential portion of it. Another question I had was how did the Assessor determine the amount of lands to be ascribed to residential purposes rather than undeveloped?

Mark Riley:

Using the aerial photos.

Ed Judt:

In terms of previous descriptions or the description we are using today?

(Inaudible)

John Braig:

This looks like a rather large parcel. Just for sake of argument could I say that the residential portion, or that that is ascribed to residential should only be half the value that you select? In other words–

(Inaudible)

John Braig:

–the amount of acreage attributed, 2.577 acres is attributed to be residential. Could it be argued that half of that would be also a reasonable value?

Ed Judt:

I don't know. I'm not sure I understand where you're going here.

John Braig:

Wait a minute, wait a minute, you guys did it. You took a pen and outlined an area and said that area is residential. How did you achieve that.

Ed Judt:

What are you getting upset about, Mr. Chairman? I'll attempt to answer your question.

John Braig:

I don't mean to be upset.

Ed Judt:

Okay, well, you sound upset. Let me be upset. The 1.79 as Rocco said he has no idea where that description came from and neither do I. We unfortunately are still in many instances using the descriptions that we inherited from the old County Assessor's office. If those descriptions have never been disputed they're still in place and we're using them. The situation with this parcel forced us to give this a look. So we're calling it 1.79 acres. Exactly where that 1.79 acres would be your guess as well as mine. It's somewhere around that house.

So could it be half of the 2.5? You can see there what Rocco chose to use for purposes–that would be basically all of the frontage there on Sheridan Road. Could you choose to use less than that for purposes of your residential description? Sure, but you've got to call the land something. If it's not residential, what is it? It's not agricultural land. It's certainly not forest land associated with agricultural land.

Mark Riley:

What's it zoned?

John Braig:

It would be undeveloped land comparable to what you have at the western edges of the property.

Ed Judt:

Well, undeveloped doesn't mean undeveloped. Undeveloped is a term that the State started using because they thought that the term swamp and waste was too derogatory, and they chose to begin using it when the legislature enacted law that forced assessors to value that kind of land at 50 percent of market value which came at a time when people were paying absurd amounts of money for conservancy around the State and didn't like the assessments reflect that. So the Chairman's question was could we reasonably have chosen to use a site half the size of the 2.577 as our residential site.

Rocco Vita:

We're only guided by the fact that whatever is not being used for the agricultural purpose is at market value. So none of the land that I've chosen here on number four is being used for agricultural purpose.

Mark Riley:

Steve, can I ask you a question?

Steven Mills:

Yup.

Mark Riley:

Would you be willing to withdraw this in light what he presented of the additional land?

Steven Mills:

No, if they want to assess me for that, if that's what it is, it is, but they're wrong here in my opinion. I mean going back to you saying that this house has a 2 acre site now instead of 1.79, I mean the house could just as easily be on 21,500 feet or 31,000 feet because that's what your comps are.

Mark Riley:

But then wouldn't you have multiple properties that you'd have the ability to sell and would even increase–

Steven Mills:

You think Jean Werbie is going to give me the opportunity to do that without about two years of development plans and all of those things?

Mark Riley:

I don't know.

Steven Mills:

It's easy to say, well, you can get that cut off. Well, go talk to Jean. But believe me I'd spend $50,000 getting a development plan put together because I couldn't just cut a piece off. I'd have to show her plans for the whole damn farm. There's 500 acres down there and this piece is 62. This is not life or death. We joust each other from time to time and I just think they're wrong, that's all. This house–that piece of land under this house is not worth $104,000, nor is this house going to get burned worth $47,500 having to pay taxes on in 2011.

Mark Riley:

I guess I'm asking if you'd withdraw or trade one for the other. He's probably right on the other one, maybe you're right on this one, they're going to wash each other out and you're going to get reassessed in '12 and it is going to be what it is, there won't be a house there. Is it worth it to just withdraw and leave it as is or not? I'm just suggesting.

Steven Mills:

I've seen how the two people before me they didn't do very well. And I happen to agree with them. If anybody is in the real estate market today of what their property values are, I think everybody has the right to come and challenge their assessment. So I say are you going to leave it or reassess me or whatever, I'm here today, I waited two and half hours so let's have a decision. I don't think you always have to side with the Assessor is my point.

Mark Riley:

I agree.

Steven Mills:

You have a right–you have to be fair and equitable, and you have to be able to look at the people over on this side–I know the Assessor wins draws. I've been through this before in other places. But I'm just saying that the marketplace today, everybody has got a right every year to challenge any one of their assessments and it's by law. And so you guys do what you want to do and that's fine.

John Braig:

Question of the Assessor. First of all, did Mr. Mills come in prior to today and engage in discussion with you?

Rocco Vita:

He did. He's talked to me more than once on this property.

John Braig:

On this property. And this report that you've given us here is dated June 21st. I assume that you prepared it before that?

Rocco Vita:

No.

John Braig:

You prepared it on the 21st?

Rocco Vita:

Which report? No, I printed this yesterday. I can print these at will.

John Braig:

When did you prepare it?

Rocco Vita:

This case, this hearing, this information probably two days ago.

John Braig:

This information that's dated here.

Rocco Vita:

I printed this–

John Braig:

Not when you printed it, when was it prepared?

Rocco Vita:

This is just a property record card. This is just a print. This is not a prepared–this is just a report that's produced for every property.

John Braig:

I see my error. This is a print of existing. You are making a proposal of new. I guess the question is–

Rocco Vita:

The new I just did that yesterday.

John Braig:

You did this one yesterday?

Rocco Vita:

Or the day before, yeah.

John Braig:

And what was the source of your information?

Rocco Vita:

The information I presented. What do you mean what was the source?

John Braig:

What triggered you to do this? You made a change. What caused you to make a change?

Rocco Vita:

I had to prepare a case for this hearing. I had to show–Mr. Mills is objecting to the value of his property. I have to explain to you how we value the property. Going through that process I have to explain to you why the Assessor's office of valuing 52 acres, in reality there are only 38. I'm in a position to confess that our records were wrong, and you have an opportunity to make them correct. I've spoken about this with Steve before and said, you know Steve, I look it and I'm valuing more for your house and land than I have.

John Braig:

That's what I'm leading up to because–

Rocco Vita:

But Mr. Mills strongly considers the value of the house to be diminished based on the letter. I apologize I did not know there was a letter. I did not request him to give me a letter. I have not been able to find the letter. And, really, the wording in that letter is a salient point. If it's a letter that says if you don't connect you have to tear the house down that's important. I don't know exactly what the letter says. I can't–my engineering department and my public works department doesn't recall sending a letter to people on Sheridan Road regarding that. But he says he has a letter. So I don't know what to tell you.

John Braig:

Well, let's clarify that up to make sure we know what we're talking about. Mr. Mills, you're saying that you received a letter and you're confident it was before January 1st.

Steven Mills:

Yeah, absolutely.

John Braig:

That's his sworn testimony.

Jill Sikorski:

Did it give you options that if you don't hook up to sewer–

Steven Mills:

I had to hook up to the sewer or I couldn't occupy the property. That's what I believe it said, I couldn't habitate it. I mean your option then–

John Braig:

Theoretically they'd have to engage in court action to revoke an occupancy permit.

Rocco Vita:

What's the source–what's being done now with the sanitary?

Steven Mills:

Status quo.

Rocco Vita:

No, is it a holding tank, is it a septic field.

Steven Mills:

I think it's an old septic field.

Rocco Vita:

Is it a pipe to the creek?

John Braig:

Probably.

Steven Mills:

Probably, I don't know.

Rocco Vita:

Did you get a letter from the Kenosha County Sanitarian?

Steven Mills:

No, I got it from you guys.

Rocco Vita:

I'm at a loss. I've asked both departments.

Steven Mills:

I think I've got it in the file. I'll get it for you. It came from, you know, over on 31 I believe–

Rocco Vita:

Prange.

Steven Mills:

It would be engineering?

Rocco Vita:

Engineering is here now. I asked the technician. They do not–our engineer isn't in the office right now, but they don't recall sending a letter of that sort but I'm not saying they didn't. It's eight months ago.

Steven Mills:

Because I'm sure that the septic field is there. I don't know. Are all the other properties up and down Sheridan Road hooked up to the sewer, for instance the red house to the southeast that used to be Vernirons (phonetic)?

Ed Judt:

Honestly I don't know that because once the property becomes serviced by sewer whether or not you attach to it we stop caring. We call it a sewered parcel. So if you were to look this up for instance on the County's public access it would say that this is a parcel with sewer.

Steven Mills:

But there isn't. There is no sewer. I didn't invent the letter.

Rocco Vita:

Right, that seems implausible.

John Braig:

Whether the letter exists or not I guess is going to be up to the Board in their own mind make that judgment.

Rocco Vita:

I'm sure a letter exists, but it's the criteria of the letter.

Steven Mills:

Nobody has come back to me, though, and said what have you done?

Ed Judt:

If I might suggest, it would be appropriate to perhaps recess this particular hearing and allow Mr. Mills to come back with a copy of the letter.

John Braig:

Tom?

Mark Riley:

I'm not even sure that letter has a lot of relevance.

John Braig:

I think it does. Because I'm saying if the letter says you've got to spend X letters–

Mark Riley:

No, it doesn't. It doesn't say that. It just says he can't inhabit that house if he doesn't put the sewer in. It doesn't say he has to tear the house down. It doesn't diminish the value of the house.

John Braig:

Let's move up a notch. I've got a half a million dollar house that's on a septic tank.

Mark Riley:

It diminishes the value of the house if you don't put it in but it doesn't say he doesn't have to.

John Braig:

And you get this letter and it says I've got to spend $50,000 to make a connection. If I offer that house for sale to you, you aren't going to give me half a million dollars. You're going to discount it.

Mark Riley:

You don't know that.

John Braig:

You understand my point.

Mark Riley:

No.

John Braig:

Okay.

Mark Riley:

The value is in the purchasers. I mean if he turns around and tried to sell it they may connect it and they may see the value.

John Braig:

If you're willing to pay for the full half a million I'll sell you a bridge or two also.

Mark Riley:

I'm just saying that somebody might be willing to. Whether it's difficult to get that zoned and cut off I can't speak on that but that house is still there.

John Braig:

Let me pose a question. Assuming Mr. Mills is willing to come back should we defer this until we see a letter or should we proceed, amongst the Board?

Mark Riley:

I don't care, what do you want to do?

Jill Sikorski:

I would like to see how it was presented and what the options were to know that he really had to vacate the property if he didn't hook up to the sewer.

Ed Judt:

He didn't say he had to vacate the property.

Jill Sikorski:

But it was inhabitable.

Steven Mills:

I think you couldn't occupy without either a working septic system which you wouldn't allow me to do. You had to bring the sewer into the site.

Mark Riley:

But he doesn't have to tear the house down.

John Braig:

No, he could store grain in it.

Steven Mills:

But the house is–if you're not doing anything tonight go drive by it. You can see it right on Sheridan Road. It's not habitable.

Rocco Vita:

So the septic is not working now in it?

Steven Mills:

No, I think it's working. I just got a letter from Pleasant Prairie that said hook up to the sewer.

John Braig:

Is the creek still flowing?

Steven Mills:

The creek is still flowing. I mean I didn't imagine that.

John Braig:

I'm getting a feeling–Mr. Mills, would you be willing to come back?

Steven Mills:

Sure or I'll send it to you guys and you figure it out. I mean tell me what you want to do.

John Braig:

There's a point. Assuming we get the letter–

Mark Riley:

Can't he just get the letter and bring it to Rocco and have them discuss it. If Rocco is not aware of the–

John Braig:

What I'm leading up to is if we opened up our next session–

Steven Mills:

You've been here a long time. I don't want to keep you here any longer. You've got people waiting.

John Braig:

If we open up the next session and the first thing we do is look at this letter, finish this discussion and reach a conclusion immediately?

Ed Judt:

I agree. Mr. Mills is going to be here for that session as well.

John Braig:

Which session?

Ed Judt:

The next day of hearings, yeah.

Steven Mills:

I haven't gotten notice of that yet.

Rocco Vita:

They haven't decided yet.

John Braig:

If he's here let's hold back until the next go around.

Steven Mills:

I'll go back and get it in my file.

John Braig:

Jane, you'll schedule appropriately?

Jane Romanowski:

We were going to do that after the hearings today, but we would need a motion obviously.

Steven Mills:

You tell me the 28th of this month?

John Braig:

Motion to table until Tuesday, June 28th.

Jill Sikorski:

I'll make a motion.

Mark Riley:

Second.

John Braig:

It's been moved and seconded to table this item of the agenda until next Tuesday.

SIKORSKI MOVED TO TABLE THE HEARING REGARDING THE OBJECTION FILED BY MILLS HOLDINGS LLC FOR PROPERTY LOCATED AT 9500 SHERIDAN ROAD, TAX PARCEL NO. 93-4-123-192-0101 UNTIL JUNE 28, 2011; SECONDED BY RILEY; MOTION CARRIED 4-0 WITH BURKE RECUSED FROM THE HEARING AS REQUESTED.

Steven Mills:

Thank you.

John Braig:

See you Tuesday.

e. 1:00 p.m. - Kim & Emily Karry

John Braig:

Is there a properly completed objection form?

Jane Romanowski:

Yes, there is, Mr. Chairman.

John Braig:

Would the Clerk please read it into the record?

Jane Romanowski:

Sure. This is the objection form of Kim and Emily Karry. Property address is 10098 Cooper Road, Tax Parcel Number 92-4-122-233-0199. Total property assessments are $414,600. They feel the assessed value is incorrect. They state assessed value is above property value based on recent sales data and upon comparing neighboring property values, the spreadsheet that's attached as you can see behind the objection form. They purchased the property for $331,400 October 1, 2010. They've made no improvements. They have not listed it obviously for sale in the last five years. They had an appraisal done on January 17, 2010, and it was appraised to build or up to the construction loan, and the appraised value was $380,000.

John Braig:

Thank you. With that, we'll ask the clerk to swear in the participants.

Jane Romanowski:

Do you solemnly swear in the matter now in hearing to tell the truth so help you God.

Voices:

I do.

Jane Romanowski:

Please have a seat and state your name and address for the record.

Kim Karry:

Kim Karry, 10098 Cooper Road, Pleasant Prairie, Wisconsin.

Emily Karry:

Emily Karry, 10098 Cooper Road, Pleasant Prairie.

Ed Judt:

Edward Judt, 9915 39th Avenue for the Village of Pleasant Prairie.

Rocco Vita:

Rocco Vita, Assessor for the Village of Pleasant Prairie.

John Braig:

I guess you've got an idea of how we work here now. We're ready for your presentation.

Kim Karry:

Okay, I'm new to this, but my understanding of the Wisconsin Tax Code should be fair market value. Currently assessed as stated $414,600, square foot of the home 2,560 square foot, three bed, two and a half bath, two story, three car garage, atypical home for the neighborhood. It is deed restricted, or the property terminology there's a certain amount of bricks, certain amount of square footage for the house.

Emily Karry:

It's in Village Green Heights.

Kim Karry:

Village Green Heights Subdivision. B plus rating on Rocco's assessment form that I received. I was told speaking with Rocco and Ed that the majority of the houses in the neighborhood this is just speculation or B to C grade, some A. So with a B plus rating we're a little bit overbuilt for the neighborhood. Bank appraisal, we brought a copy of the bank appraisal when we went for the construction loan. The total amount was $380,000 minus 20 percent down payment, so the total loan that we could get to construct the home was $304,000, and this is just rough numbers off the top of my head. I didn't bring enough copies for everybody. I'd be willing to share a copy of the appraisal with the Assessor or the Board. Do these guys want time to review it? It's from 2010.

Rocco Vita:

If you're going to present it as evidence you'll have to submit it.

Jane Romanowski:

I can make copies.

Rocco Vita:

Jane will have to make copies nonetheless.

Kim Karry:

So appraised at $380,000 minus 20 percent that was the construction loan that we were able to procure to build the home. Comparable homes current appraisal we're going off just current appraisal looking at the Village website, and we have additional handouts that we can give, spreadsheets. We looked for houses that are similar to ours in average 2,681 square foot, averaged assessed $364,100, average cost per square foot $136. Recent sales comparable, we have an average of 2,465, average assessed $353,500, recent sales average $351,500, so $140 square foot. On market currently there is houses that we see that are for sale. The average is 2,272 square foot, average assessed $361,750, listing average $336,500. So that gives you roughly $148 a square foot for sale list price.

In closing, as I mentioned, we have the other evidence to support our case, but based on recent sales if we were to take the average assessed at $130 times our square footage of 2,560 that would give us an assessed value of $325,120. Comparable assessed, as I mentioned before, $136 a square foot times 2,560, the square footage of our property, would be $348,528. Currently listed $148 a square foot times our square footage again would be $378,355. An average between those three numbers comes to $356,068. On our objection form we believe our house would be worth $331,400. That is based on the current market value, what the houses are listing and selling, plus 1.5 percent being it's a brand new home.

Emily Karry:

And we do have copies of the information that he was rattling off, I'm sorry. She went to go make a couple extra copies.

Kim Karry:

It has PIN, street addresses and all the pertinent information.

Emily Karry:

And all the information that we looked into was all within the Village Green Heights neighborhood looking at arm's length property.

John Braig:

Thank you. Are you guys ready?

Board of Review
June 23, 2011

Ed Judt:

Again, subject parcel Tax ID Number 92-4-122-233-0199 at 10098 Cooper Road. The assessment of 2011 $414,600. If you're looking at my handout I missed a zero and that's actually $58,000. Improvements $318,800. So we have a land value of $95,800 I missed the 9, and $318,800 for the improvements for a total of $414,600. This house sits on a corner lot on Cooper Road in Village Green Heights Subdivision, two story home, B plus quality. I would suggest that this house is not overbuilt for the neighborhood. There are B plus homes all over the subdivision (inaudible) what I said when I said it's in that B and C range I'm including minuses and pluses and whatnot. And we even bleed into a couple of A range homes in the subdivision. So B plus in terms of relative quality.

Built in 2010, new house, good condition, 1,406 square feet on the main level with a full basement, 1,153 square feet on the second level for a total of 2,559 square feet. This house has three bedrooms, two and a half baths, aluminum exterior with some masonry trim. There is a three car attached garage and a number of porches and a patio.

Comparable number 1 also in Village Green Heights is Tax PIN Number 92-4-122-233-0231 at 10052 55th Avenue. This house sold for $380,000 back in November of 2009. As I said also in Village Green Subdivision. Two story home, B minus quality built in 2007, good condition. This house as 1,231 square feet on the main level with a full basement, 1,376 on the second floor for a total of 2,607 square feet, four bedrooms, two and half baths, vinyl exterior, again with some brick trim and attached garage. With the adjustments we arrive at an adjusted sale price of $421,000.

Comparable number 2, Parcel Number 92-4-122-233-0144 located at 4838 103rd Street. This house sold for $415,100 back in October of 2009. Also in Village Green Subdivision, two story home, B plus quality, built in 2006, good condition. This house as 1,567 square feet on the first floor, (inaudible) basement, 565 square feet of that basement is finished, 1,171 square feet on the second level. Adding all of those up we get 3,303 square feet. In terms of just first and second level, though, you have a house fairly comparable to the subject property (inaudible). Four bedrooms, two and a half baths, masonry and frame exterior. Again, three car attached garage. Add up all those adjustments we arrive at an adjusted sale price of $394,000.

And, finally, comparable number 3 Parcel Number 94-4-122-233-0156, this house is at 10130 48th Avenue. This house for sold for $545,000 in October of 2009. This house is you're wondering about that adjustment there, you see a fairly steep adjustment there on a lot that's fairly comparable in size to the subject house (inaudible). When you look at the first two comparables at about 15,000 square feet you see barely any adjustment. When you get to comp 3 you have a similarly sized parcel with a large adjustment. The reason for that is this. The subject parcel sits on a corner, and we have gotten in the habit of adjusting corner lots in a downward fashion because they sell for less. Probably they sell for less because a corner lot now you have similarly deep setback (inaudible) front yard and your side yard rendering those portions of the parcel (inaudible) causing those parts of the lot to (inaudible). So that is the reason for that rather large adjustment.

So, again, Village Green Subdivision, two story, B plus quality home, built in 2007, good condition, full basement with about half of it finished, 2,160 square feet on the main level, 844 upstairs so that leaves you 3,004 on the main levels and 4,190 square feet (inaudible). There are five bedrooms here, four and a half baths (inaudible) construction again, attached 3 car garage and taking all those adjustments you have (inaudible) listed sale price of $473,500. Average those and you get $429,500, again, on the assessed value of $414,600.

John Braig:

Ed, discussing the regular lots versus corner lots, as I understand you said you adjusted downward a corner lot as opposed to the other lots in the area. If so, you made no adjustment for comps 1 and 2?

Ed Judt:

I did, absolutely.

John Braig:

Does that reflect the square footage or–

Ed Judt:

Both. You've got significantly smaller lots there which should have resulted in a substantial positive adjustment but you don't see that there. You see very small adjustments because that adjustment is net of the rather large adjustment we're making to the subject parcel for being on a corner.

John Braig:

Okay, thank you. Questions, discussion?

Emily Karry:

The Village Assessor had mentioned about the adjustment for a corner lot. Our property is also on a corner lot and–

Ed Judt:

That's why we're making the adjustment.

Emily Karry:

That house is, too, as well I believe, okay.

Ed Judt:

If that third comp were on a corner there'd be no adjustment because we'd be, you know, comparing identical amenities. Because that parcel is about the same size as yours but is not on a corner, we value it at about $12,600 more give or take. That's the reason for the negative adjustment.

Rocco Vita:

What you're saying is if that house were on a corner we would reduce the sale price by $12,600, okay, to reflect that you were on a corner. That's what we're saying. That's what the comparison process is all about. It's kind of inverse and sometimes confusing.

Emily Karry:

Okay, thank you. And then the other question that I have is the comparable comps that you provided all are all from 2009, and there have been sales in this neighborhood of comparable properties in 2010 which we did provide on our little spreadsheet. But I just wasn't sure if that came into play or not, because we all know–

Kim Karry:

The market changes rapidly as we all know, so we should be comparing apples to apples with recent sales, not when the market was red hot.

Emily Karry:

Or on its way down, starting to go down.

Mark Riley:

Did you guys build this house?

Kim Karry:

Yes.

Emily Karry:

We did.

Kim Karry:

From general contractor.

Mark Riley:

That first appraisal that you got from the bank was off a set of blueprints?

Kim Karry:

Correct.

Mark Riley:

And then you actually paid for the lot and you paid the builder $331,000 to build the house?

Kim Karry:

We were our own general contractor on the project, so the lot was purchased by us and then we got a construction loan to build the property.

Mark Riley:

Was your construction loan for the amount minus 20 percent?

Kim Karry:

It was a lot less than that.

Emily Karry:

I actually brought the mortgage.

Kim Karry:

Construction loan finalization I think it was about $264,000 or $265,000.

Jill Sikorski:

So where did the $331,400 figure come from? I don't–

Emily Karry:

I should probably give this evidence.

Kim Karry:

Sure, that would be great. The $331,400 is the number that we are saying that our property is worth.

Mark Riley:

You should give it to Jane.

Jill Sikorski:

But you’ve go purchase October, 2010 $331,400.

Mark Riley:

Is that your draw sheet?

Kim Karry:

Yeah, that’s the lot and the construction loan so that’s what it cost us. That’s what we have into the property.

Jill Sikorski:

Okay, that’s what it cost you.

Kim Karry:

Right.

Jill Sikorski:

That’s not what the value was.

Kim Karry:

Right. That’s what it cost to build this home everything rolled up into one.

Emily Karry:

And October is when we received occupancy to move in.

John Braig:

In effect the bank said the plans you presented were worth that as a construction loan.

Kim Karry:

Yes. They said you’re worth $380,000 everything all said and done minus 20 percent. So if you can’t build this house that you’ve given us a plan for at that then too bad, you don’t get a construction loan.

Jill Sikorski:

So they lent you based on the lesser of your cost which are your hard improvements plus your lot 80 percent of that figure.

Kim Karry:

Yes, $380,000 minus 20 percent.

Jill Sikorski:

But the value was still $380,000. You got a good deal essentially because you paid less than what the property was worth.

Kim Karry:

Correct.

Mark Riley:

Did they lend you on the $380,000 or what it actually cost you?

Kim Karry:

They lent us $380,000 minus 20 percent. That's the maximum that they would lend.

Mark Riley:

Okay, and you took the full amount?

Kim Karry:

Took less than that actually, took $265,000 to build the house, $105 a square foot to build the home.

Rocco Vita:

And you were the general.

Emily Karry:

And we do not do that professionally for a living.

Jill Sikorski:

Would you ever build again?

Kim Karry:

Yes.

Mark Riley:

I've got a question of Ed. When you do these adjustments on comp 1, 2 and 3 for the date of the sale, I'm assuming, well, I'm not assuming anything, how are you adjusting that? You have a date on the first one of November of '09. How many months are you adjusting? What are you adjusting to?

Ed Judt:

I'm adjusting to January 1st.

Mark Riley:

Of?

Ed Judt:

2010. And I see your question and I'm not sure why that happened, and I'm not sure which of those two numbers is correct so I apologize. I made an error there one way or the other.

Mark Riley:

Well, I guess you're seeing something I'm not maybe.

Rocco Vita:

Yeah, what do you mean?

Ed Judt:

I'm seeing two different time adjustments – oh the time adjustment is based on the sale price, okay.

Mark Riley:

So I'm assuming November or December, one or two months' adjustment was worth $3,500 to get to January 1, 2010, am I correct?

Ed Judt:

Yes.

Mark Riley:

So on an annualized basis you could six times that. You don't have to agree that it's on an annualized basis, but if I assumed it was on an annualized basis it would be anywhere from 12 to 6 times that number depending on whether it was November 30th or November 1st it's somewhere between 6 to 9 times, okay.

Ed Judt:

Right.

Mark Riley:

Thank you.

Rocco Vita:

On the appraisal you submitted, and this was done for financing?

Kim Karry:

Correct.

Emily Karry:

Yes.

Rocco Vita:

Comparable number 2 is similar to our comparable number 1.

Kim Karry:

Correct.

Rocco Vita:

And comparable number 3 is our comparable number 3.

Kim Karry:

Correct.

Jill Sikorski:

So they lent you 80 percent of your costs, not 80 percent of the appraised value?

Kim Karry:

$380,000 minus 20 percent is the maximum they would loan us to build the home.

Emily Karry:

The way it works with a construction loan is they say, okay, we can loan you $300,000 but you take draws out as you're building along and you can draw money back.

Jill Sikorski:

I know. I've been doing that for 32 years so I understand how a construction loan works, that's why I'm asking. But you don't lend more than what your cost is. So you basically take your costs and your land and the appraised value. Sometimes it's going to cost you more than what it's worth, sometimes it's going to cost you less than what it's worth. So you always say, okay, we'll lend you 80 percent of the lesser of the two. So they didn't lend you 80 percent of your $380,000. They lent you 80 percent of your $335,000.

John Braig:

They offered to lend.

Kim Karry:

I do have an email at the house, it's been some time since we built, and with the appraisal being at $380,000 if my memory is serving me correct in getting prepared for this they said $380,000 minus 20 percent, we could go no more than $304,000 or $305,000 for the loan. Now, setting up and building a house I know there's overruns and so on and so forth. I already had my costs in so it's a bit of negotiating with the bank and saying, okay, I've got safety window to build this home . So $300,000 was my cost to build at the time, with all the estimates in we were about $260,000 or $250,000 so that's my best explanation from my memory when we did this in getting prepared for everything.

John Braig:

Closing argument?

Kim Karry:

I would like to say just in retrospect comparable number 1 is currently assessed on our sheet at $365,500, the assessed value according to Kenosha website. I do not have assessed value for comparable number 2 or comparable number 3, because by looking by square footage of recent sales and comparable houses this was not in our arm's length sale or comparable properties.

Emily Karry:

And we thank you for your time.

John Braig:

Closing statement from the Assessor?

Ed Judt:

I don't think I have anything to add.

John Braig:

Good enough. Thank you.

Rocco Vita:

Just that the appraisal was for a property that didn't exist at the time.

John Braig:

With that we close the hearing and open it up for discussion amongst the Board.

Lena Schlater:

(Inaudible)

Jane Romanowski:

Lena, can you turn your mic on please?

Lena Schlater:

Yes. I see that one of my gals in the office, Colleen Daavettila did the appraisal on this and I didn't know that until I got it. So I will abstain from this one here.

John Braig:

Good enough.

Mark Riley:

Need a motion?

John Braig:

If there's no further discussion a motion.

Mark Riley:

I guess I'm the lone person here but I will come at this from different angles. First of all, I'm going to make a motion that we accept their appraisal and their acquisition price as having some substance. I'll just tell you how I get there. Their acquisition price–if they built it themselves, being in the general contracting business, a contractor makes about 10 percent. If you add 10 percent to $330,000 you're going to have about $333,000 more and it's going to put them in the $365,000 range. That fact and the fact that if you take a linear–the Village Assessor is stating that they adjusted the prices for January 1, 2010, it is my understanding from our lawyer that we are to look at this value of this property as of January 1, 2011. And if I use a linear decline in the market I think it would be safe to say that these properties, these comps 1, 2 and 3 have lost varying percentages but roughly $30,000 to $40,000 which takes and puts this in the $390,000 range. So the value of the property in my mind is somewhere in the $360,000 to $390,000 range. If you want to pick a happy medium that's fine.

But it's inconceivable in my mind to think that any of these properties that we heard today have not been reduced in value, and I also understand on the Village's side that they are not using current information and all of our objectors are using current information. And we are comparing apples to oranges, even though in some cases the Village has refuted their appraisals and part of it is true, and part of it may not be true. I don't know without getting into the nitty gritty. But I do feel pretty confident that between 2010 and 2011 all the properties have gone down in value. And if you don't use the new information you're never going to come to that conclusion.

Ed Judt:

I know mine went down in value and I'm not challenging my assessment.

Mark Riley:

But that's your prerogative. The law states each individual–

Ed Judt:

What's the assessment for, Mark?

Mark Riley:

I'm not going to get into that. I've been advised by the lawyer that the law is–

Ed Judt:

I don't think it's at all beside the point. I think we're about fairness, that's why we exist.

Mark Riley:

I haven't heard anything from the attorneys about fairness that each one of us as a taxpayer has a right to come in here and object. And our job as the Board is to come to the conclusion is the value on January 1, 2011 right or wrong. You guys have used all 2010 data. I don't know how you could say it's right. I know you have to do that. I understand it's your job. It's not a personal thing between me and you. It's me understanding the law, and if I look at our attorney who I have to lean on to help me make this decision he is saying that I've got to decide whether your appraisal is '10 or '11. It can't be '11 because you didn't use any new comps and you can't.

Tom Camilli:

Just to clarify what the statute says, the Assessor is putting forth a value which the Assessor has maintained is the value as of January 1, 2011. The statute requires that this assessment be given presumptive truth, presumptive correctness. It is then up to the objector to make a sufficient showing based upon the evidence presented as to whether that presumption can be overcome. So it's not–I just want to make sure that the Board understands the starting point. The starting point by statute, whether we agree or not with the statute, the statute says we must give the Assessor presumptive value. That's where we start. It then shifts to the objector to bring forth additional evidence to sufficiently show that that is not or that presumption has been overcome. That's what the Board is weighing.

Mark Riley:

And that to me is you don't even have to think about it. You've got old data versus new data. As long as the data is used properly.

Rocco Vita:

I take issue to that, because when I look at their appraisal they don't use any information from 2010. Every single, just like earlier today, their comparables were old comparables just like ours were. Maybe we used in one instance one from 2008, but otherwise they were the same numbers. I have a comparable here on their appraisal 2009, on their appraisal 2009, on their appraisal 2009 and on their appraisal 2009. The information we're using is the same.

Mark Riley:

I disagree.

Rocco Vita:

No, you can't disagree. It's right there.

Mark Riley:

(Inaudible) 1/17/10 appraisal. That's not an '09 appraisal.

Rocco Vita:

No, but the sales they're using is from 2009, and their assessment date of January 2010 how far is that from our assessment date of January 2010 or 2011? I mean their dates are the same as ours. Now, the thing is they've made different adjustments because they make if for financing, and they make different adjustments because the woman doing the appraisal didn't have the benefit of walking into a home to see what exactly–she's looking at blueprints and then trying to value properties based upon that and making adjustments to and from comparable properties without having the benefit of seeing what was actually constructed. This appraisal carries no weight today in this environment when a home actually is constructed. Would this appraisal be different if an appraiser actually saw what was done. So to give this appraisal due weight–

Mark Riley:

Well, you have to give it some weight. I don't say you have to give it a heavy weight, but what about the actual cost? Has that got any value in showing what the market is today or do we dismiss that.

Ed Judt:

You were a builder. I mean you experienced a profit when you built stuff that was imbedded in your cost. In this case we had a general contractor, and the overhead or profit that's typically associated with building is not including here so you've got to add it.

Mark Riley:

I did. I added ten percent. I added $30,000. I doubt they saved it. It probably cost the more by doing themselves because they don't have the right people (inaudible)--

Jill Sikorski:

Which is why I said would you ever do it again.

Mark Riley:

But if you take that testimony and their worksheets to the bank that's actual cost and it's as current as it can be. It's not even a guess. Now, I know you can't use actual cost because somebody might buy that house for more–they've got sweat equity and things like that. I fully understand that.

Rocco Vita:

I just want the record to show that they didn't provide any more current information than we did because they didn't.

Mark Riley:

Well, I disagree.

Rocco Vita:

You can't.

Mark Riley:

I'm going to.

Jill Sikorski:

Rocco, can you address–

Rocco Vita:

We have three 2009 sales, they probably have four 2009 sales, they're the same. In fact, we used the same sales.

Mark Riley:

But your sales did not take into consideration of January 1st of '11.

Rocco Vita:

Neither did theirs.

Mark Riley:

How do you know that?

Rocco Vita:

Because it was effective as of January 2010. It says right on there, January 17th. You read it before.

Mark Riley:

No, that's that one.

Rocco Vita:

That's right, that's what I'm saying. They didn't use anything more current than us.

Kim Karry:

I would like to add if this appraisal was done in 2010, my only point being the factual data that I provided on current sales in comparable houses and square footage-wise show less assessment. The assessment–

Emily Karry:

2010 and 2011 they're on the–

Kim Karry:

It's on the spreadsheet we provided. That's all factual information from the Village website.

Emily Karry:

From the Kenosha County website.

Kim Karry:

Arguing over this appraisal that was done a year ago in this market, if I brought a different appraisal in it would probably be less than this.

Rocco Vita:

But you don't know that, do you?

Kim Karry:

We all don't know that. We're arguing about speculation which is pointless.

(Inaudible)

Jill Sikorski:

Rocco, the land value on yours should be $95,800, not $5,800.

Rocco Vita:

That's correct. Ed mentioned that earlier, yes.

John Braig:

Question of Tom. We've gone into discussion regarding assessed valuation at January 1, 2011. Mark seems to be concerned that if an objector brings in information that shows it's current value it's something different. What does the statute actually say? The objector should reflect the value of January 1, not today's value, that's my question.

Tom Camilli:

Let me try to pull up what I believe to be the applicable statutory section.

John Braig:

We'll give you time.

Mark Riley:

Not today's date but January 1 of this year, not today's date.

Tom Camilli:

The relevant provisions of Chapter 70.47 which I believe are determinative to the Board's decision, and unfortunately the legislature has given the Board a good amount of discretion. I think the question you asked me, you're looking for some parameters as to how you should weigh and judge the evidence and the information that's presented to you. Well, the legislature doesn't necessarily spell it out as nicely as you would hope because it's given the Board discretion.

What the legislature has said in 70.47(8)(i) is that the Board shall presume that the Assessor's valuation is correct. That presumption may be rebutted by a sufficient showing by the objector that the valuation is incorrect. What is a sufficient showing? I think that's in the purview of the Board to determine what is sufficient to overcome that statutory presumption. Now, 70.47(9) states that then from the evidence before the Board shall determine whether the Assessor's assessment is correct. If the assessment is too high or too low, the Board shall raise or lower the assessment accordingly and shall state on the record the correct assessment and that assessment is reasonable in light of all the relevant evidence that the Board received.

John Braig:

The statute refers to the Assessor's assessment which seems to suggest strongly the January 1 date is critical. And the information that we would receive regarding any data after that, if we did accept it, we would have to somehow reflect back or prorate it to a January 1st date to give it full credibility. In other words, let's say we speak of a sale. If the objector presents sale information of a comparable property that is significantly less today than it might have been on January 1, if we were to take that information into consideration properly, we could take the raw numbers as presented but we'd have to adjust them back to the January 1 date. So I guess what we're saying is when we receive the objector's information, it all in our minds or however we handle it should reflect back to the January 1.

Tom Camilli:

That is the date of assessment.

John Braig:

I can see where it isn't specific in the statute, but it's kind of woven in between the lines. Further discussion or decision?

Mark Riley:

I think I made a motion.

John Braig:

You started out with a motion. You said you were going to move and you got into a long winded discussion without any specifics.'

Mark Riley:

I said between $360,000 and $390,000.

Jane Romanowski:

You'd have to pick a land value and an improvement value.

John Braig:

$95,800 is the current land assessment. Out of curiosity, your address is Cooper Road. Is Cooper as it exists now going to bend in and extend down to 104th?

Emily Karry:

It does in our subdivision right now, but I believe that it is planned to extend to the north to Cooper, yeah–

John Braig:

So in time you could expect to travel from Highway 50 down to 165 using Cooper all the route?

Emily Karry:

I think some day. Hopefully we'll still be living there.

John Braig:

Devonshire is actually east of Cooper is it not?

Emily Karry:

It's northeast of us. They're not contiguous. At this point there's a parcel in between.

John Braig:

At 95th Cooper goes into a T intersection. The land on the south side of 93rd Street is vacant and it appears abandoned. Maybe the Village should buy it and let the right of way go straight through there. If anybody else wants to make a motion we're not dependent on Mark.

Mark Riley:

Alright, my land split and improvements split would be $85,000 on the land–

Jane Romanowski:

We need the mic, Mark. Can you put that on the record please.

Mark Riley:

The land would be at $85,000, the house would be at $290,000 for a total of $375,000.

John Braig:

It's been moved. We would need a second. Motion fails by lack of second. We're still open to further discussion.

Jill Sikorski:

I'll make a motion to accept the value of the appraisal that the property owners presented. You need me to recommend the split, Jane?

Jane Romanowski:

Yes.

Jill Sikorski:

I would suggest $85,000 for the land and $295,000 for the improvements.

John Braig:

You're $5,000 off.

Jill Sikorski:

Did I add that right?. $85,000 for the land and $295,000–

Jane Romanowski:

For a total of $380,000. That's a total of $380,000.

Jill Sikorski:

Yes. I'm just trying to give validity to the appraised value.

John Braig:

It's been moved.

Mark Riley:

I'll second.

John Braig:

It's been moved and seconded to adjust the assessment of said parcel to reflect an $85,000 assessment on land and $295,000 for improvements for a total of $380,000 total assessment.

SIKORSKI MOVED TO CHANGE THE 2011 ASSESSMENT FOR PROPERTY LOCATED AT 10098 COOPER ROAD, TAX PARCEL NO. 92-4-122-233-0199 TO REFLECT A LAND VALUE OF $85,000 AND IMPROVEMENT VALUE OF $295,000 FOR A TOTAL 2011 ASSESSMENT OF $380,000; SECONDED BY RILEY; ROLL CALL VOTE – BRAIG – YES; BURKE – YES; MOTION CARRIED 4-0 WITH SCHLATER ABSTAINING.

John Braig:

You've been successful to a degree.

Kim Karry:

Thank you.

Emily Karry:

Thank you very much for your time.

Kim Karry:

Appreciate it.

John Braig:

Thank you.

Jane Romanowski:

The 1:30 appointment did not show up. Since there is an objection filed the Board would have to concur by motion with the Assessor's recommendation so we have it on the record.

(Inaudible)

Rocco Vita:

You can't make a decision to support the value because (inaudible)

Jane Romanowski:

I guess you're right. I apologize.

John Braig:

The only thing that could come up is if between now and Tuesday they could present an argument?

Mark Riley:

If they don't show they can still come?

Jane Romanowski:

The objector was called and were told when the date and hearing was. The first two hours he would have to come if he didn't file an objection with good cause, but now it would be extraordinary cause and if he didn't show up–

John Braig:

Does the statute–let's say he was in an automobile accident, totally wiped out.

Jane Romanowski:

He could come in and claim extraordinary circumstances, fill out the form, present it to the Board and the Board can make the decision.

John Braig:

So he would have some appeal at the end.

Jane Romanowski:

So was there a motion and a second for the case dismissed? We need a motion and a second for the case dismissed. No roll call on this.

John Braig:

Who is going to move?

Jane Romanowski:

Mark, did you motion?

Mark Riley:

Yes.

Lena Schlater:

Second.

John Braig:

Moved and seconded to dismiss the complaint of George and Rita Nicholson for not showing.

RILEY MOVED TO DISMISS THE OBJECTION OF GEORGE AND RITA NICHOLSON ON PROPERTY LOCATED AT 8423 1-4TH AVENUE, TAX PARCEL NO. 91-4-122-083-0040 AS THE OBJECTORS DID NOT ATTEND THE SCHEDULED HEARING; SECONDED BY SCHLATER; MOTION CARRIED 5-0.

John Braig:

You want to talk about anything else before we adjourn.

Jane Romanowski:

We just need to make sure we have the next Board of Review date before your adjourn. We're looking at next Tuesday, June 28th, 8:30. John Burke recused himself from any objections filed by Steve Mills. Lena said she wouldn't be here also Mark Riley will not be able to attend.

Mark Riley:

If you move it to Monday or Wednesday I can come.

Jane Romanowski:

Mr. Kennedy said he could come in the morning so we would be able to handle it in the morning. So it would be three of you, John, Jill and James. If something changes I'll let you know. So June 28th at 8:30. A motion to adjourn would be in order.

7. ADJOURN TO JUNE 28, 2011 AT 8:30 A.M.

SIKORSKI MOVED TO ADJOURN THE BOARD OF REVIEW TO JUNE 28, 2011 AT 8:30 A.M.; SECONDED BY BURKE, MOTION CARRIED UNANIMOUSLY AND MEETING ADJOURNED AT 3:25 P.M.