VILLAGE OF PLEASANT PRAIRIE
BOARD OF REVIEW
9915 39th Avenue
Pleasant Prairie, WI
June 13, 2012
9:00 A.M.

A meeting of the Pleasant Prairie Board of Review was held on Wednesday, June 13, 2012 and called to order at 9:00 a.m. Present were Board members John Braig, John Burke, Jill Sikorski, James Kennedy and Attorney Tom Camilli. Mark Riley and Lena Schlater were excused Also present were Rocco Vita, Village Assessor; Ed Judt, Village Appraiser; and Jane Romanowski, Village Clerk.

1. CALL TO ORDER

2. ROLL CALL

3. HEARINGS

a. 9:00 a.m. Daniel and Gabriela McTernan

John Braig:

And I see we have two people present. I'll ask the Clerk to read into the record the completed form.

Jane Romanowski:

This is a hearing for Daniel and Gabriela McTernan, Agent J. Michael McTernan for property address of Lot 21 of Meadowdale Estates, Tax Parcel Number 92-4-122-231-0421, total property assessment $74,500. An explanation of why they feel the value is incorrect - the property was purchased from an unrelated seller in November of 2011 for $45,000. The opinion of the fair market value – or excuse me, the taxable value of the property on January 1st is $45,000. The property was purchased in June of 2012 pending for $55,000. No improvements have been made to the property. The property has been listed for sale within the last five years, and number 9 is answered yes or no as well, there's been an appraisal of the property. That is the completed form.

John Braig:

Thank you. At this point we'll ask the clerk to swear in the witnesses on both parts, the assessor and the objector.

Jane Romanowski:

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:

Please be seated, and then each person please state their name and address for the record.

Rocco Vita:

Rocco Vita, Assessor for the Village of Pleasant Prairie.

Ed Judt:

Ed Judt for the Village of Pleasant Prairie.

Michael McTernan:

Attorney Michael McTernan, Agent for the J5 Group LLC and for Daniel and Gabriela McTernan.

Daniel McTernan:

Daniel McTernan.

John Braig:

Thank you. Mr. McTernan you've been through this before, you know the procedure.

Michael McTernan:

Yes, I do.

John Braig:

We'll let you lead off.

Michael McTernan:

Alright. The objection as noted, and I apologize for the error that it noted the yes or no wants you to check a box on the form. It somehow went unchecked, the yes box, when I checked no. There has not been an appraisal of the property in connection with this hearing. It strictly is a challenge that is based on the assessor's manual that says, and I can quote you the assessor's manual, and I presented this to the Village, that we look to the transaction, the arm's length transaction to determine the fair market value of the property and analyzing the transaction and presenting evidence strictly based on sales that have occurred of the subject property is at issue. The standard that we're following is strictly that.

The J5 Group had absolutely no relationship whatsoever to the seller and purchased the property for – purchased the property in November 2011 for $45,000. And based on that sale that occurred within two months of January 1, 2012, the arm's length transaction that took place, and there's no evidence to the contrary that that transaction isn't a valid arm's length sale. It was bought from a ready, willing and able seller, from a ready, willing and able buyer who purchased the property. It befuddles me to understand how that transaction in and of itself doesn't establish the fair market value of the property. Analyzing what the Village has presented or will present today and what I've been shown it ignores sales that have occurred in the subdivision that reflect specifically transactions that have occurred in that subdivision that do reflect a value of $45,000 is valid and proper.

And as evidence, and I'll present it to you, and the assessor doesn't disagree with this, if you look at the property located at – let me just make sure I give you the correct tax key number, property at 92-4-122-231-0443 and – I'll back up because I see the photo we have. The first transaction that I'll reflect that has relevance to the subject matter property is 92-4-122-231-0598. It's a property that was acquired in December of 2011 for $69,900. It's property that is right here. It's property that abuts a forest preserve built next to Dr. Mary Beth Barr's house. It literally has one acre of an incredibly well established home backed into property that is a well sought after property of woodlands. The arm's length transaction $69,900 is drastically different property from this property to this right here. This property right here as we all can see it sits on 97th Street. It's going to abut one, two, three, four different properties. Two are vacant right now, and it was purchased at $45,000 within days of this being purchased for $69,900. Arm's length transaction. Here $69,900, arm's length transaction here for $45,000.

Also indicative of this being worth $45,000 is this property right here closed in two weeks. It just went under contract for $45,000. I bring to the attention of the Board a signed contract by my client, the J5 Group that reflects the purchase price unconditional for $46,000. Again, very similar piece of property next door to the one in question that's under contract right now to close in two weeks for $46,000. Again, I know it's not a closing. I have a binding contract from my client, the J5 Group that has an unrelated transaction with no contingencies that is going to close on June 15th. I present this as – let the Board take judicial notice as evidence, although similar transaction in the same exact subdivision on the same exact road next door from Larry and Christine Miletta that has signed and offered and sold this property as a valid contract as Mr. Camilli noted. Binding transaction my client is going to close on. Similar lot sales exactly on the same road and directly indicative of value.

I also point to property known as Tax Key Number 92-4-122-231-0443. A property that sold for $45,000 in February of 2012. It's a property on the north side of the subdivision right off of

Rocco Vita:

The last number is 43 what?

Michael McTernan:

-0443. This is a vacant property that was purchased for $45,000 in February of 2012. Matt Troha purchased it and it's this property right here. Slightly larger property. It's surrounded by two neighbors sitting on a cul-de-sac and he purchased it for $55,000 shortly after the J5 Group bought it. Again, off 93rd. A better property than the one in question, one sitting on a cul-de-sac with two well built homes around it but for $55,000.

To further support the $45,000 purchase of the property in question is that Dan McTernan purchased it last week for $55,000. The comparisons that I understand the Village is looking at is they want to ignore the J5 Group purchase, the J5 Group sale to Matt Troha. They want to ignore the J5 Group purchase of the property in question. They want to ignore the $55,000 transfer that occurred last week when Dan McTernan bought it from the J5 Group. And they strictly want to look at other properties that should and indicate value. One of the other properties that they present as a comparison, again, was the one abutting into a wooded lot. That wooded lot value that was purchased last year by Craig Kennedy for $69,900 is superior. No one can doubt that backing a home into a wooded preserve with one neighbor is not a superior property to the one in question.

The other parcel that they look at that they want to compare it to is one purchased by Thomas Kelly from the Kenosha Hospital, and he bought a property just south of here in a cul-de-sac as well. And they purchased that property I believe for $90 some thousand. Again, the Village wants to look at parcels that are completely different in makeup and style and location, and they want to ignore properties that are directly comparable to the properties at question. I look at the transactions and say to myself you have to look at the sale of the property in question. The sale of the property in question sold for $45,000 in November of 2011. Indicative that that was a fair market value was the fact that it closed last week for $55,000. I don't know how you can ignore those two sales and immediately say, well, it's worth $74,900 as the assessment request by the Village.

I also don't know how you ignore other sales that have occurred for the $45,000 range including the one that's under contract right now for $45,000 and say we can ignore that as well when it is directly comparable. There is no better value that you could look at than the one in question and the one next door for value. What else do I have?

The last one that is presented is one that Attorney Thomas Santarelli purchased, and Thomas Santarelli purchased that property as it relates on the land sales information. He paid $135,000. Now, what the assessor doesn't know and what the assessor can't tell from just simply looking at the deed is the closing statement in the documentation that supports that the bank gave Thomas Santarelli over $50,000 for credit for his landscaping and driveway improvements, bringing the property closer to $70 some thousand as the fair market value price. That basis and that information is available. I didn't have enough time to obtain the records from Attorney Santarelli, but he personally presented to me that that's the only reason I paid that price. $70 some thousand for a lot.

Again, built right next to Mr. Jeff Stanich's home in a completely wooded subdivision, a part of the development is, again, and if you can pull that property up real quick, it's Tax Key Number 92-4-122-231-0603 sold for $135,000 and is located right here. Again, that's next to Jeff Stanich's home but in a subdivision back in the woods at the end of a cul-de-sac reflects in the $135,000 but with credit for $50,000, closer to $60,000 for improvements that they're paying for for driveway and landscaping it brings the value to $70,000. Again, a superior lot to the one in question up here that we're arguing is worth only $45,000.

I'm simply asking Dan did you close on the transaction on Friday, June 7th, or Friday, June 8th?

Daniel McTernan:

Yes.

Michael McTernan:

And did you purchase the property for what price?

Daniel McTernan:

$55,000.

Michael McTernan:

Do you have any agreement or arrangement with the J5 Group LLC to do anything other than purchase the land from them?

Daniel McTernan:

No, just purchase the land.

Michael McTernan:

Are you under any contingencies to do any development work with the J5 Group in connection with this lot?

Daniel McTernan:

No.

Michael McTernan:

Are you free to do whatever you want with the lot?

Daniel McTernan:

Yes.

Michael McTernan:

Did you buy it without any restrictions?

Daniel McTernan:

No restrictions.

Michael McTernan:

Indicative of that transaction, even though it's six, seven months after January 1st, it provides clear evidence that the $45,000 purchase price in November of 2011 is indicative of value as of January 1 showing that it was bought seven months later for $55,000. I don't have anything further.

John Braig:

Thank you. Any questions at this point? If not, we'll open it up to the assessor.

Rocco Vita:

I do.

John Braig:

Oh, go ahead.

Rocco Vita:

In valuing real estate, the Wisconsin Statutes at 7.32 instructs the assessors real estate how to value. It says real property shall be valued by the assessor in the manner specified in Wisconsin Property Assessment Manual provided under 73.03 (2a) from actual view or from the best information the assessor can practicably obtain at full value which could ordinarily be obtained there for a private sale. That's part of the hierarchy where sale of subject remains number one at the top of the hierarchy. In determining the value, the assessor shall consider recent arm length sales of the property to be assessed, the subject, if according to professionally acceptable appraisal practices those sales conform to recent arm length sales of reasonably comparable property. In other words, if the sale of subject, that sale price conforms reasonably to the sale prices of similar property in the neighborhood it should be a major component and a major criteria as to the valuation of that specific property. Lacking an arm's length transaction of the subject, the assessor is instructed to go to the next tier which is recent arm's length sales of reasonably comparable property and then lacking comparables in the other factors.

In determining whether a sale is arm's length, the Doneff court in 1994, *Doneff v. City of Two Rivers* states that the Wisconsin Property Assessment Manual lists six conditions which are necessary for a sale to be considered a market value transaction or arm's length. In fact, today I gave you a copy of the Doneff summary from the Wisconsin Property Assessment Manual as well as the portion of the Wisconsin Property Assessment Manual actually is now page 14-14 that lists five criteria. The criteria has been changed.

Number 1, it must have been exposed to the open market for a period of time typical of the turnover time for the type of property involved. So we would look and see what's the typical turnover time for vacant lots in Meadowdale perhaps. 2, it presumes that both buyer and seller are knowledgeable about the real estate market. 3, it presumes buyer and seller are knowledgeable about the uses, present and potential, of the property. It requires a willing buyer and a willing seller, either party compelled to act. 5, payment of the property is in cash or typical of normal financial and payment arrangements prevalent in the market for the type of property involved. 6 doesn't appear in the manual anymore.

And then there's two paragraphs following which says in discussing whether conditions two and three made legal presumptions that shift the burden of proof to the city, the Wisconsin Supreme Court held the taxpayer, rather than the assessor, retains the burden of proof on each condition set forth in the Property Assessment Manual that must be met to show that the sale was a market or arm's length transaction.

And then the last paragraph indicates, in addition, the Wisconsin Supreme Court overruled the Court of Appeal's earlier decision which also stated that conditions two and three are legal presumptions that are deemed satisfied unless rebutted. The Wisconsin Supreme Court added, the language, the six conditions, five actually to date, does not indicate that an assessor or board reviewing an assessment can assume any of the conditions exist. Rather, each condition must be shown to exist by proof submitted by the taxpayer.

So I would be asking the property owner or its agent to just go through those five and tell the Board how this applies.

Michael McTernan:

Well, in connection with the property in question it was on the market for an extended period of time by the previous owner. The J5 Group had looked at that property for almost two years, and the seller was trying to sell the property, was trying to sell it with a home built on it, and finally couldn't find a buyer for the home, had it on the market for two years, the subject property, and then purchased it for $45,000. He immediately put it back on the market, the J5 Group and left it on the market for seven months.

Seven months later Dan McTernan in the end of May of 2012 signed an offer to purchase and closed on it within a few weeks on a finance transaction with no contingency for $55,000. I believe seven months on a transaction where the property sat on the market between the time that the J5 Group bought it until the time it sold is a reasonably exposed time on the market. It was ready, willing and able for anyone to buy it and anyone to sell it. Both parties are knowledgeable. The J5 Group has bought property throughout the community for decades. Dan McTernan by himself – what times have you been taking looking at real estate in the open market looking for a lot in Kenosha County?

Daniel McTernan:

Past five years.

Michael McTernan:

And have you been negotiating and looking at lots in various parts of the marketplace?

Daniel McTernan:

Yes.

Michael McTernan:

And during that time have you been analyzing the values of real estate and whether or not $55,000 was the fair market price in June of 2012?

Daniel McTernan:

Yes.

Michael McTernan:

Did you notice and watch and have an opportunity to buy the property that the J5 Group bought for $45,000 in November of 2011?

Daniel McTernan:

Yes.

Michael McTernan:

Why didn't you buy it for $45,000 at that time?

Daniel McTernan:

Wasn't able to close on it.

Michael McTernan:

Because you didn't have the funds or you would have possibly bought it –

Daniel McTernan:

Possibly bought it.

Michael McTernan:

– for $45,000?

Daniel McTernan:

Mm-hmm.

Michael McTernan:

Were you under an compelling nature to purchase the property in June of 2012? Did you have any obligation that you had to buy it?

Daniel McTernan:

No obligation at all.

Michael McTernan:

And I can tell you the J5 Group had absolutely no obligation to sell it other than they had a willing, ready and able buyer that was willing to buy it and the J5 Group was willing to sell it, and they had it on the market for seven months trying to find a buyer so they sold it to him.

Rocco Vita:

Before we go on this is just kind of confusing because we're talking about two transactions, one for $55,000 –

Michael McTernan:

In June of 2012.

Rocco Vita:

And then one for $45,000.

Michael McTernan:

In November of 2011, and I can speak on behalf of the J5 Group that –

Rocco Vita:

I understand.

Michael McTernan:

– in November of 2011 it sat on the market for two years, and the seller of that property had it on the market for two years.

Rocco Vita:

And you're saying –

Michael McTernan:

He was trying to sell it to my client in order to – he was trying to sell it to the open market with a house on it or as a vacant lot, and I can't speak for the seller back in 2011 because I don't represent the seller nor am I an agent for the seller. I know as an agent for the buyer that in 2011 when the J5 Group purchased the property for $45,000 it sat on the market, and kept going back and forth with the seller, and eventually after a two year period of time purchased it for $45,000.

Rocco Vita:

Right. Am I to understand, a simple question, the acquisition of $45,000 is your controlling reason for having the value put at $45,000, and then the acquisition of $55,000 supports the value of $45,000?

Michael McTernan:

Absolutely.

Rocco Vita:

Okay. So then you can go on. Thank you.

Michael McTernan:

The next transaction the Milettas and the J5 Group entering into that contract, they'd been looking at that lot and other lots for two years. And the Milettas, again, I can't speak for them on why they sold the property to my client and entered into a contract for $46,000 next door on June 7th. That was accepted on June 8th, but the J5 Group has been looking at that lot and other lots and willing to pay $46,000 for that property next door. And entered into a binding contract after looking at it for – looking at lots in that subdivision and approaching many sellers in the neighborhood to find out if they're interested in selling knowing that that was the price that the property should sell for. And the Milettas have been searching for a buyer as my client understands for some time. As we understand it the Milettas had no obligation to sell it. And, again, the J5 Group has no tie in with the Milettas other than they were a ready, willing and able seller and my client was a ready, willing and able buyer. And he will close on it within two weeks pursuant to the contract we have as evidence.

Rocco Vita:

To your knowledge did Mr. Corbin, the owner of the subject parcel prior to the J5 Group acquiring it or the Milettas were either of those parties under duress or being forced economically in any way to sell the property.

Michael McTernan:

I have no information that either one of them are under any financial duress. The Milettas I know her family is very wealthy, and I wouldn't be concerned about her well being. Corbin I have no idea. I don't represent him nor do I know. I know he'd been trying to sell it for two years.

Rocco Vita:

And then 5, acquisition is normal financing, item 5?

Michael McTernan:

Correct.

Ed Judt:

Who is the J5 Group?

Michael McTernan:

J5 Group is owned by two individuals, husband and wife, Vanessa and Bruce Johnson. They're the sole owners of the J5 Group.

Ed Judt:

And we would more commonly know them as Liberty Builders for instance? In fact, if you look at the lot today you'd see a for sale sign from Liberty Builders on the lot?

Michael McTernan:

That's a former marketing arm of Bruce Johnson, correct. I know that Matt Troha purchased the property from the J5 Group. I know that Matt Troha's brother used to be years ago a partner with Bruce Johnson but no longer is and is under no obligation to have any relationship whatsoever with Matt Troha, his brother. But that transaction as Bruce Johnson has told him was a ready, willing and able buyer, that Matt Troha was under no financial obligation to buy and build with Bruce and sold him the lot for $55,000. And Matt Troha owns a house in that subdivision. He owns one – I don't know why Matt would have bought it other than he thought it was a good price for $55,000. Matt wasn't under any financial obligation to buy from the J5 Group, and the J5 Group wasn't obligated to sell it but did.

Ed Judt:

Any other questions now? Okay. Let's just do them all at once.

Rocco Vita:

The other exhibit I gave you could be probably marked as Exhibit 2 [inaudible]. Probably the first one Mr. McTernan gave you should be marked Exhibit 1.

Ed Judt:

In which case we'll call these Exhibits 3, 4 and 5. You're getting three items from me. The first is a complete list of the sales that we used to arrive at our values for 2012 on the lots in Meadowdale Farms. And attached to is a list of the asking prices of the unsold lots in Meadowdale Farms as of the date that we set those values which was about three months ago, sometime in March, I don't know precisely when.

Just to reinforce the validity of those asking prices, I stopped at the subdivision yesterday and picked up some copies of their marketing material just to reinforce the idea that those asking prices that we used back in March to give us some guidance in setting the values appear to be unchanged at this time. I didn't look at the brochure on a lot-by-lot basis, but at least generally the range of asking prices appears to be about the same. You also have a copy of one page of our property record card just to give you some history of the value of the property.

I'm going to start with the page that looks like this. It is a spread sheet in [inaudible] fashion that covers less than half the page. These are the sales that were available to us, again, at the time that we set the values back sometime in March. These sales occurred from mid 2010 through the early part of this year. I guess I'll mention right now you do not see that $45,000 sale on this list. Mr. Corbin's sale of that property was forced by the bank. And so we didn't include it here. The later sales that Mr. McTernan refers to obviously were not available to us at the time that we set these values. So I really can't speak to those at this point.

But let me for purposes of the record give you these sales quickly. The first is Parcel Number 92-4-122-231-0604. It sold in June of 2010 for $135,000. The next sale is Parcel Number 92-4-122-231-0408. It sold in August of 2010 for $125,000. The next sale Parcel Number 92-4-122-231-0589 sold in May of 2011 for $120,000. The next sale Parcel Number 92-4-122-231-0603 sold in August of 2011 for $135,000. The next sale Parcel Number 92-4-122-231-0598 sold in December of 2011 for $69,900. And finally the last sale occurred this year, Parcel Number 92-4-122-231-0586, that sale occurred in February of this year at $97,900.

If you take a real simple approach to these sales, the sales averaged about $3.49 a square foot. You'll see that information down in the boxes below the list of sales. In addition to those sales we took a look at the asking prices that were available to us at that time. That's the second page attached to this sales list. Based on those asking prices we chose to mitigate that average a bit, come down a bit, and we eventually settled on a unit rate of $3.25 a square foot, and that is eventually what we used to value all the lots on Meadowdale, vacant or otherwise.

I'll point out to you again, back to that second page and, again, I think if you look at the promotional material that I picked up yesterday this really has not changed. But you'll see there that you have a range of asking prices from $69,900 to $130,000. The average asking price in the subdivision is about $95,000. I'm holding here a listing from the multiple listing service relating specifically to the subject property.

Mr. Corbin the homebuilder, the previous owner who sold the lot last November for $45,000 to J5 Group, indeed, did have the lot listed for two years. He began at a listing price of $159,900. At the time that the listing expired he was down to $109,900. And then, again, at the bank's recommendation he sold the lot for $45,000 last November. Mike mentioned that he was attempting to sell the lot for the past five months. He did have it listed in the MLS but only in the form of a house/lot package. He never attempted to sell the lot individually. That listing originated in January, and the asking price there was $569,000, again, lot and house included.

I think it's interesting when you look at these there were a couple of exceptions, but generally speaking the J5 Group seems to have cornered the market for cheap lots in Meadowdale. I'm not sure why that is. Mr. McTernan suggests to you that there is no relationship there. There's no good reason for that. Okay, take it for what it's worth. But nobody else is buying lots other than the J5 Troha Group as I'm going to refer to them for less than $70,000. That is the lowest valid sale price that has occurred in that subdivision.

Rocco Vita:

And if you look on the second page, the listings, the second page, the J5 group is not acquiring the lots from the bank or the realtor, Dan Scardino. They're acquiring them from private ownership. The other thing, like Ed said, at the time of transaction this lot neither time was it being published or listed for sale in the MLS. This most recent transaction occurred once the listing at $569,000 with the home expired. And then the first one when Mr. Corbin had the home listed he had it listed last from October of 2008 to October of 2010. So he may have been trying to sell the property. He may have had a sign but it wasn't on the MLS, Multiple Listing Service.

Ed Judt:

I don't think I have anything further.

John Braig:

Nothing further.

Michael McTernan:

If I might.

John Braig:

You've got questions?

Michael McTernan:

Yes.

John Braig:

Go ahead.

Michael McTernan:

I guess the question is what evidence is there that it was a forced sale by the bank that Mr. Corbin sold it to my group, to the J5 Group? We haven't heard any evidence. We heard some conjecture. I'm just curious. I don't know that.

Rocco Vita:

The response is that burden is upon you to provide.

Michael McTernan:

It's my burden to provide that it was a forced sale? I have no evidence that it wasn't an arm's length transaction. It sat on the market as you point out until October of 2010 trying to sell it with a house and a lot. Last time that it expired on an MLS listing, paying a commission, in 2010 of October as you noted it still had a sign on the property for over a year for my client who then purchased the property. Didn't have it listed on the MLS. It was on the market for sale from a private owner. There's no evidence that it was a forced sale. And, yes, the last time it was listed in October of 2010 it was $109,000 and he couldn't get any buyers. A year later my client bought it for its market price of $45,000.

Similarly the idea that we have a listing of a bank owned who took over and spent over $2.5 million as noted to acquire VK's lots, obviously the market that VK had for these properties was in the hundreds of thousands of dollars per lot, and VK obviously didn't see the market coming and it crashed. Obviously even at the prices the bank is listing them at, and if you look at this list and you look at the brochure that the assessor has presented, all these lots that are on the market for sale Lot 98 sold for $69,900. Listed on the market put up for sale by Point Real Estate on behalf of the bank owned – [inaudible] so that an incredibly desirable lot backed into wetlands for $69,900. My client's property, Lot 21, for $45,000 I think it's directly, directly comparable in the fact that at $45,000 is a direct comparable if you take away the fact that it has one neighbor and it backs into protected wetlands, that that property doesn't value at $45,000.

The other item is asking price. Nowhere in the manual does it tell that asking price is indicative of value. Sales are indicative of value. My house, someone wants to buy it I'll sell it them for a million bucks. Sure, it's always for sale, that's not what it's worth. It's worth what someone's willing to purchase it. So I look at the asking price and it's irrelevant. It has no relevance to what the value of the property that have sold. The next piece I look at is if you look at the property that was sold, the one that's also sold here for $135,000 from Attorney Santarelli who paid $135,000 and had a $60,000 credit for landscaping and driveway improvements puts it down in the $70,000. Again, another property that backs into undeveloped space. Again, a much larger lot but indicative of value of what Lot 21 is worth. I have no further questions for the assessor.

Ed Judt:

Can I respond to that? I guess first of all the listing prices here, the asking prices, were not the driving force behind the values. I've shown you that we used sales to arrive at those values. However, the asking prices can serve as a guide. That's what we used them for, and it caused us to lower our values I would suggest significantly below what the sales suggested that we ought to value them at. So they're not the basis for the value, but they certainly helped us get to our value.

Secondly, I'll tell you that last November I got a phone call from Bruce Johnson. He called me on another matter. But during the course of the conversation he said I just bought at lot at Meadowdale for $45,000. And my response to that was $45,000? And he chuckled. And he says, yeah, I think I'm going to build my own house on there, I'm going to move back to Pleasant Prairie. Obviously he chose not to, he decided to do something else here. But the point is during that conversation he never suggested that he was expecting a new assessment at $45,000. In fact, he chuckled at my reaction to the purchase price. So while I do not have direct evidence that this was a bank forced sale, it is common knowledge in the community that this was a bank forced sale. And if Mike suggests otherwise, well, I'll leave it at that.

John Braig:

I guess this is open for final summary, and then we'll close our receiving of testimony and go into deliberation. Do you have anything more to share?

Michael McTernan:

I do. And the simple evidence that has been presented if you look specifically at this lot is that at $45,000 that's what he purchased it at in November of 2011. And there have been other transactions that support that value up and down that street. If you look at Lot 22 next door that just went under contract for $46,000, and if you look at Lot 43 which is Matt Troha's purchase of a property that Mr. Johnson bought for $45,000 and then sold for $55,000, and then you look at the subject property, Lot 21, that sold for $55,000. With evidence from both parties in that transaction presented to you that it is an arm's length transaction, regular typical financing, and I don't know how you get around that.

Again, I don't care about anyone else's lot. I don't represent any other property owner, and all the other lots could be wrong. It's not my job to talk about them. It's my job to talk about the one lot, Lot 21. And in that context that's where I present the evidence is clear and concise and supported that it's worth $45,000 on January 1, 2012. Thank you.

John Braig:

Rocco, anything more in summary? Okay.

Rocco Vita:

I think that Mr. McTernan is correct, it is the sales evidence that is driving and that's important to the assessment process. We've provided you the sales that occurred at the time. There's no concrete evidence of the $70,000 in concessions that the bank paid for the property at the $135,000 sale bringing that down to $65,000. But overall even with one low sale of $69,900 the rest of the sales were above $69,900. The fact that the J5 Group has bought three lots for $45,000 and sold – well, two lots for $45,000 and one for $46,000 and sold two lots for $55,000, one in a very nice cul-de-sac and this one on 97th Street, indicates that they're able to acquire lots far below what anybody else has been able to acquire them and this is what everybody else has been able to acquire them for, and are satisfied with a 20 percent gain in a short period of time.

John Braig:

Thank you. With that we'll close the public hearing portion of it and open it up to questions and deliberation on the part of the Board.

Jane Romanowski:

Mr. Chairman, just one correction I noticed on the objection form. As I stated the property assessments were listed at $74,500, where in fact the assessed value is $84,100.

John Braig:

$74,500 is incorrect on item 3?

Jane Romanowski:

Yes.

John Braig:

Correct is?

Jane Romanowski:

$84,100.

John Braig:

Thank you.

Michael McTernan:

I apologize for that. I did not see the actual assessment notice, so if it's $84,100, wow, it's even more drastic than I thought.

John Braig:

An item that's in my mind is reflecting on the fact that these are assessment values for January 1 of this year. And some of the information we have, the purchase prices or purchase amounts paid later in this year. I haven't heard any attempt to reflect back to a January 1 date what these purchase prices might have been. Either party care to comment?

Michael McTernan:

Well, I do. There are been transactions that have occurred in November of 2011, the subject property $45,000. Even though January 1 is the date of that assessment, I don't think the assessor would disagree, and their own evidence used the transaction. This lot that sold in February of 2012 for $69,000, and if this property is assessed at $74,100 and they're using the supporting number of a transaction that occurred in February 2012 supporting a $74,000 assessment there. The assessor is allowed to use values that are close to the date in question and the assessor has. I agree that the transaction of $55,000 in June of 2012 I'm not offering as evidence to say that that drives the value of $55,000. I'm not saying that. I'm saying it supports the fact that it supports the $45,000 transfer that occurred in November of 2012. The same with Mr. Troha's purchase of a property from my client for $56,000 in February of 2012 supports the value of the subject property on January 1 of 2012, and supports the $45,000 purchase price my clients made in November of 2011.

So within two months of the assessment period, the assessment date, I have valid sales. And all I'm using is the sales that have occurred since then to go back and support that it shows and reflects and supports the transactions that occurred in November 2011. If the transaction that we're talking about in June of 2012 was for $150,000, I wouldn't be here. I'd have a hard time arguing. But it's logical to say that within a seven month, eight month period of time a transaction, a property has shown just a little bit of increased value and goes back to support the November 2011 sales price. Because if Mr. Johnson was able to buy it for so cheap he would have sold it for $84,100 or $99,000 or whatever the price the assessor believe it's at but he didn't. He sold it for $55,000 because that's the market.

Jill Sikorski:

I'm not convinced that –

Rocco Vita:

This is the property that sold in February of 2012, not the one across the street, the one on the screen here, the cul-de-sac lot. And this sold for $97,900. Not all that different. Probably less desirable than the cul-de-sac lot the J5 Group sold for $55,000 that was shown earlier. Again, there's a difference between the J5 acquisitions and dispositions versus everybody else in our minds.

Jill Sikorski:

I'm not convinced that we had a willing seller in November based on the testimony the assessor gave. I think there was a situation of duress which with my understanding would mean we really should not use that sale because it was not based on the Wisconsin Department of Revenue was not an arm's length transaction.

Mike McTernan:

What evidence? There isn't any evidence.

Jill Sikorski:

Well, he had it listed for how many months as a package.

Ed Judt:

From January of this year up until shortly before the sale of the lot.

John Braig:

When we speak of on the market and for sale, obviously when a subdivision is developed everything in it is for sale. And as time goes by some are sold, some remain for sale. Are we saying that there's an active effort in marketing these? In other words, is the property under contract and listed with a realtor who is advertising and promoting? Or, is it simply a sign stuck out in the curb lot saying that Lot 44 is for sale?

Rocco Vita:

I think there are different types of listing. The one you have there is a listing on a brochure. There's a sign, you can pick up the brochure, they're on the MLS, Multiple Listing Service, and the property owner can put the sign in their front yard. It's just a different type of listing or exposure. I should say a different type of exposure. It's not really listed on the MLS, it's a different type of exposure.

Mike McTernan:

I'd agree with that, Rocco. I'd agree.

John Braig:

In this brochure there's an awful lot of lots with just a few of them marked sold. Are all these vacant? These aren't all vacant lots now are they? This is a map of the area, but it's not a map of each property that is for sale?

Rocco Vita:

If you can look at the aerial photo there are a lot of vacant lots especially in the new phase.

Mike McTernan:

Most of the gray ones are for sale and vacant, most of the gray.

Ed Judt:

When you look at the promotional area from the realtor, the grayed area was the second phase. The white area was the first phase. I would suggest the majority – there's still a lot of vacant lots in the first phase. The majority of the first phase, however, has been developed. I don't believe –

Mike McTernan:

All these lots are in phase 2.

Ed Judt:

All are in phase 2, yeah. I don't believe that the bank took back any phase 1 parcels. So the answer to your question is, yeah, the majority of the lots in phase 2 are vacant, vast majority.

John Braig:

And in effect the bank foreclosed on VK, and the bank has an awful lot of properties they'd like to dispose of. What bank is it, do we know?

Ed Judt:

There was no foreclosure. It was voluntary, but yeah.

John Braig:

Do we know what bank it was?

Rocco Vita:

It was a deed in lieu of foreclosure.

John Braig:

Okay.

Michael McTernan:

I do know the bank. The bank which is in the process as I understand was trying to sell all these lots in a massive sale to a private owner at a significantly discounted rate which I wouldn't be using to support anything. But if you want to know conjecture there's an enormous transaction about to take place where all these lots are going to get sold again to a private owner. And they're going to buy them at an enormous discount below even the $45,000 price that Bruce Johnson bought them at. And someone is going to buy them all. It's just a matter of weeks that's going to take place. But that isn't relevant to this because it isn't comparable. As Ed and Rocco will say just as the bank foreclosed or deed in lieu it's not relevant just as these are all going to get packaged and sold by the bank to a private owner who is going to one-sey two-sey market them. That will happen and they probably all won't be sold . That's not applicable to what we're talking about here.

John Braig:

Thank you. Discussion?

John Burke:

Were we not here last year with a similar situation with Dennis Troha?

Ed Judt:

Two years ago maybe.

John Braig:

Well, it stands to reason when we have a situation such as total situation in that subdivision and, of course, influenced by economic conditions there is likely to be someone who would be a speculative investor who is looking for an opportunity and hopes for good results. Well, recognize, too, our obligation here is to uphold the assessment by the assessor until if and when the objector presents sufficient evidence that the assessment should be otherwise. I guess the question before us is have we received enough evidence? We've got evidence showing support of the assessor's assessment, and we've seen indications that the objector has some validity in his objections.

John Burke:

Well, Mr. Chairman, like Ms. Sikorski I feel that this sale was probably due to a little bit of duress. Do I have proof of that? Absolutely not. But we're here not to conjecture but we're here as citizens to arrive at a decision. And I remember quite vividly two years ago when we were here, and I believe there's something else going on here. I'm not saying anything negative. I just feel there were opportunities that were presented that Mr. McTernan took advantage of. I'd do the same thing. But to say that it's worth $45,000 when all the rest of them are listed considerably more and the mean is $95,000, I have a difficult time accepting that.

John Braig:

I can't disagree with you. I'm looking at a value of $45,000, just a rough guess, does the assessor have any idea how many new home starts there have been in the Village in the last year or two years? Obviously it's depressed, but I know of one subdivision that's got quite a bit of activity.

Rocco Vita:

Each of the last two years there have been 50 new home starts. Actually Pleasant Prairie has been a very bright spot in southeastern Wisconsin because the developments were acquired by a bank and then sold off to these third parties in bulk amounts at a low price, and those builders are then selling them off, which will have happened here in this instance. And the development you're talking about, the three developments are next door, Devonshire, Ashbury up by Highway C and Bain Station which is across 88th Avenue from Ashbury.

John Braig:

Because what I'm thinking of is the ordinary individual that would want to build a home today would have jumped at an opportunity to buy a lot for $45,000.

Ed Judt:

And if I may, when you look at inferior developments reasonably close by like Village Green and Whispering Knoll, and these are subdivisions that were not subject to any kind of wholesale activity like Devonshire or Ashbury, you will not find lot sales in there for $45,000 either, not even close. And so, again, I don't have that evidence to present to you, but anecdotally I think it supports the fact that $45,000 is –

Michael McTernan:

And to answer that $55,000 is the price that was paid. And if you want to argue that $55,000 is a more valid assessment my clients accept that. But also what drives the prices in Meadowdale is the fact that they're in an enormous restrictive covenants that require a very expensive house to be built not similar to or very different than what Village Green or Ashbury or any of those are. So it does drive value, it drives value down because people don't want to put that much money into a house lot, that they look at the total package. So I believe that drives some of the value down because you have to build a very expensive home in Meadowdale.

John Braig:

And it could be argued it also drives the value up. It probably is more a function of time and circumstance than anything else.

Michael McTernan:

And over time I believe the lots will increase in value. But right now they're tracking at $55,000.

Ed Judt:

You're suggesting that they already have increased in value from $45,000 to $55,000 over a six month period.

Michael McTernan:

I agree, you're right.

Ed Judt:

You're the only guy on the planet suggesting that.

Michael McTernan:

Touche you're right. $55,000 would be a valid assessed value on this lot.

Tom Camilli:

Mr. Chairman if I may, I just want to ensure that the Board understands and is guided by the fact that its decision it makes today is based upon sworn oral testimony as presented here today, not upon conjecture, speculation. The Board's duty is to listen to the sworn testimony, to receive the evidence and weigh it without conjecture or speculation.'

John Braig:

Good point, thank you.

Tom Camilli:

And what has not been presented in sworn oral testimony today.

Michael McTernan:

And I did swear because I have independent knowledge. That's why it's appealed because I was speaking on behalf of J5.

John Braig:

Thank you. Further discussion on the part of the Board? I'm looking at the sheet that the assessor provided indicating the sales. Some go back to 2010, some were in 2011. That does give evidence of sale prices that are almost double of what the suggested valuation of the subject parcel is. Question of the assessors. These sales did they result in new home construction or planned new home construction?

Ed Judt:

I would have to look at them on the map to tell you.

Mike McTernan:

The lot for $135,000 closed on August 18, 2011. Tom Santarelli says it's almost ready to be occupied.

Ed Judt:

That's on the lower cul-de-sac?

Mike McTernan:

Yes.

Ed Judt:

I agree. Kelly's house is under construction.

Mike McTernan:

That one is $97,900 for the last one 586. That's under construction, right? Those are the only two I know of. The $69,900 is that under construction?

Ed Judt:

No. Drove by it yesterday, no.

Rocco Vita:

There's no permit for the second sale 408 and are you talking about 604?

[Inaudible Multiple Conversations]

Rocco Vita:

I've got an address there. They've got a permit there.

Ed Judt:

So they're building there.

Rocco Vita:

598 no permit yet. 586 that's Kelly under construction. 603 is almost done, Tom Santarelli. Yes, I have an address there. And 604 I do not [inaudible].

John Braig:

One could almost look at these sale prices I'll use the term as retail. They were on sale to someone who is going to buy and use it. And the other, or some of the other sales that we've been exposed to would almost suggest wholesale prices which is not truly reflective of the assessments across the Village. I think if we don't have further discussion or questions a motion would be in order.

Jill Sikorski:

I'll make a motion to keep the assessed value at $84,100.

John Braig:

For subject parcel?

Jill Sikorski:

Subject parcel 92-4-122-231-0421.

John Burke:

I'll second that motion.

John Braig:

It's been moved and seconded to uphold the assessment of $84,100 on subject parcel. Roll call vote please. Aye.

John Burke:

Aye.

Jill Sikorski:

Aye.

James Kennedy:

Aye.

SIKORSKI MOVED TO UPHOLD THE ASSESSOR'S VALUATION ON TAX PARCEL NO. 92-4-122-231-0421 OWNED BY DANIEL AND GABRIELA MCTERNAN IN THE AMOUNT OF $84,100; SECONDED BY BURKE; ROLL CALL VOTE – BRAIG – AYE; BURKE – AYE; SIKORSKI – AYE; KENNEDY – AYE; MOTION CARRIED UNANIMOUSLY.

John Braig:

Do you need any additional information, Jane, to fill out what form is it?

Jane Romanowski:

The determination I will hand deliver to Daniel McTernan right now.

John Braig:

Very well. Thank you.

B. 9:45 a.m. John Danko and Jessica Richards

John Braig:

Just be seated please.

Jane Romanowski:

Mr. Chairman, before we start there is one item on the form that needs to be completed, item number 5 that's not listed on your objection form. So Mr. Danko needs to complete that before we start.

John Braig:

Okay, would you take care of it please? We'll take a break.

[Break]

John Braig:

I think we can get started with the basic formalities. Mr. Kennedy is not present for the moment, but do we have a completed form on Mr. Danko?

Jane Romanowski:

Yes, we do.

John Braig:

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

Jane Romanowski:

This is the objection form submitted by John M. Danko and Jessica Steed Richards for property, vacant lot located at 86th Place with a Parcel Number of 93-4-123-172-0410. Total property assessments are $61,500. They state the value is incorrect, nearby vacant lots larger are assessed lower. In the opinion of Mr. Danko the taxable value of the property is as of January 1st $55,000, so please add that to your form. The property was purchased for $30,000 on August 31, 2011. No improvements have been made to the property. Property has not been listed for sale within the last five years. That is the objection form.

John Braig:

Thank you. Mr. Danko, this is a quasi-judicial procedure. We're going to let you make your presentation, and then the assessor will make his presentation, questions back and forth, a few things like that. And then we deliberate and decide what we should do. The State law is very clear on this. It says we have to uphold what the assessor has determined unless and until you provide evidence to the contrary, and then we have to take that into consideration. This is a procedure which is being recorded, and the information presented here is what is used if you wanted to appeal or go further. So you will be providing testimony, and both parties now will have to be sworn in so that what they said is legal and binding. And with that I'll ask the Clerk to swear in the witnesses.

Jane Romanowski:

Mr. Danko, 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 can you please state your name and address for anybody who is going to be under oath.

John Danko:

John Danko, address is 8607 3rd Avenue.

John Braig:

Thank you.

Ed Judt:

Ed Judt for the Village of Pleasant Prairie.

Rocco Vita:

Rocco Vita for the Village of Pleasant Prairie.

John Braig:

Thank you. And now it's your turn to present what information you have.

John Danko:

Okay. Well, as I wrote in the form that there's two empty lots like across the street kind of that are assessed lower than my lot, and they're actually a little larger. I have a [inaudible].

Jane Romanowski:

We'll mark this as Exhibit 1.

John Danko:

As you can see, what I did to make the properties comparable, because empty lots can vary in size, the two empty lots on 3rd Avenue are both 75 feet by 160, and multiplying that together they're 12,000 square feet. Assessed value from –

John Braig:

Before we go too far, you've got three parcels marked here. Is one of them yours?

John Danko:

One is mine.

John Braig:

Which one is that?

John Danko:

That's the 129 by 92.

John Braig:

Okay, thank you.

John Danko:

So the two lots on 3rd Avenue are both 75 feet by 160, total square footage 12,000, both assessed at $58,900. My lot is 129 feet by 92 feet comes to 11,868 feet, and my lot is assessed at $61,500. I feel that this isn't justified given the two empty lots are assessed lower.

John Braig:

Good, thank you. Now, I'm not cutting you off. If you've got more to say you can go ahead. Otherwise we'll flip it over to the assessor.

Jane Romanowski:

Number 5 on the objection form Mr. Danko filled in $55,000. That was his opinion of the taxable value of the property as of January 1st.

Rocco Vita:

You're being handed two pieces of information and an assessment history. So we have Exhibit 2 will be the comparables spreadsheet; Exhibit 3 shall be the map; and Exhibit 4 shall be the assessment history. This is a hearing in regards to Parcel Number 93-4-123-172-0410 owned by John Danko and actually others, right?

John Danko:

My daughter, yes.

Rocco Vita:

John Danko and Jessica Steed Richards. The parcel is located at 86th Place. You can see on the map or the overhead right there it's the second from the corner on the south side of 86th Place. This is a 92 feet wide by 129 foot deep lot, and it is valued as $760 for each foot of width. The current assessed value is $61,500.

The comparable sale we'd like to enter into the record is Parcel 93-4-123-173-0261. This property is located on 87th Street. You can see that on your map or the overhead. It's a blue shade. It sold in October of 2010 for $95,000. It's a 122 feet wide by 228 feet, and this property sold for $758 for each foot of width. This was the one sale that occurred in the last two years in all of Carol Beach of a developable parcel, and this is what we used to establish the unit rate of $760 for each foot of width for this revaluation year in Carol Beach North. The subject property does reside in the neighborhood of Carol Beach North.

Understanding that there is only one vacant sale in Carol Beach North, I went back a little further and found comparable number 2, Parcel Number 93-4-123-184-0455 that sold in September of 2009. This sold for $75,000, and it's location is on 3rd Avenue at 90th Street. So it is approximately three blocks south of the subject property on 3rd Avenue. The subject property is two lots off of 3rd Avenue. It's a 73 foot wide lot and 187 feet deep. This property sold for $881 for each foot of width, which at the time was the driving factor for our unit rates in the 2010 revaluation. So while out of date it does give an indication of another vacant lot. These are the only two developable and vacant lots that sold in Carol Beach North in the last four years.

The subject property was acquired by Mr. Danko from the adjoining lot owner. Our opinion is that it wasn't a valid sale because it was not an arm's length transaction. It wasn't exposed to the marketplace. No evidence is provided to suggest otherwise. So we're going with the one market sale we have, sale number 1, as the indication of value for all the properties in Carol Beach North and the unit rate of $760 for each foot of width. That would conclude my evidence. Oh, otherwise, I apologize, Mr. Chairman, number 3 does provide the property description with its value, and the front page of Exhibit number 3 does give the assessment history. And you can see over time we had a high of $87,700 for this lot. We're now down to $61,500. In each of the last revaluations we've reduced the value commensurate with what the sale price has indicated.

John Braig:

Thank you. Now, at this point before we close the hearing portion of it you've got an opportunity to ask any questions or look for clarification. Do you have any questions of the assessor.

John Danko:

My biggest question is the lot that recently sold for $95,000 is probably twice the size of my lot if not more. It was two single lots that were joined together, and although I don't have the square footage on it because it's kind of a pie shaped, it's not rectangular like the two lots on 3rd Avenue that I'm comparing my lot to, but you can definitely see it's a huge lot. So whether it's comparable to my lot I would question that highly.

In terms of the two lots I'm comparing to I don't know if landscaping enters into the equation, but those two lots are also grassed and landscaped. My lot is wooded and lots of underbrush. So if landscaping is part of the assessment, that should be considered and my lot should be considered unlandscaped.

John Braig:

A question of the assessor. As a parcel of land is, well, obviously it's not growing larger, but for consideration purposes as a parcel becomes larger does the average cost increase or decrease per square foot?

Rocco Vita:

Following the Wisconsin Property Assessment Manual we use the diminishing returns theory in that as a parcel becomes larger it accrues in value but at a lower rate of the unit values. And the assessment rate that we use in Carol Beach North is that we'll value the first 80 feet at $760 for each foot of width. But then the 81st to the 151st is valued at $456 for each foot of width. And then from 151 to 300 each foot adds $304. So it's a declining scale that says that it adds value but it adds it at a lower rate. The same would be true with the depth factor. And that's one of the reasons the parcels mentioned by the property owner, Mr. Danko, are 72 or 75 feet wide with 160 feet deep. Their depth factor being beyond 150 which is a standard depth in the neighborhood is a positive factor, whereas his lot being a depth of 129 would be a negative factor because it's less than 150.

John Braig:

Thank you.

Rocco Vita:

We're not using the square foot as the unit of value metric in the old subdivisions. It's based on the width of the property.

John Braig:

With that I'll close the hearing portion of this and open it up to questions and discussion on the part of the Board. Bear in mind that our obligation is to uphold the assessor's evaluation unless we've received sufficient evidence to the contrary.

Jill Sikorski:

Mr. Danko, when you purchased this property last August was it listed in the MLS, or did you purchase it from a private party?

John Danko:

No, it was for sale by owner.

Jill Sikorski:

For sale by owner.

John Danko:

He put a sign on the property back in October of 2010. He was looking for $65,000, but he had no response.

John Braig:

I'm strongly influenced by the front footage. I think it's just common knowledge that small lots with less front footage are certainly not as valuable as the equivalent square footage but with a wider front footage. I guess the question is have we received sufficient evidence? The presentation by Mr. Danko is basically based on total square footage of the properties, and that is not within the normal considerations of assessment. Rather they look at the dimensions both frontage and depth.

Rocco Vita:

I will say that we do value some subdivisions on the square foot method, and those are generally the subdivisions that were platted and developed since Tuckaway because we have accurate plats and that information. Really the only thing is that Mr. Danko hasn't provided any sales evidence other than his own which isn't an arm's length transaction, and we've provided you two sales.

John Braig:

Based on what I've seen here I don't see that we have received sufficient evidence to alter or not oppose the assessor's evaluation. I believe we would be ready for a motion to that effect.

John Burke:

I would make a motion to support the assessment of $61,500 for Parcel Number 93-4-123-172-0410.

Jill Sikorski:

I'll second that.

John Braig:

It's been moved and seconded to uphold the assessor's assessment for said parcel. Roll call vote please. Aye.

John Burke:

Aye.

Jill Sikorski:

Aye.

James Kennedy:

Aye.

BURKE MOVED TO UPHOLD THE ASSESSOR'S VALUATION ON TAX PARCEL NO. 93-4-123-172-0410 OWNED BY JOHN DANKO AND JESSICA STEED RICHARDS IN THE AMOUNT OF $61,500; SECONDED BY SIKORKSKI; ROLL CALL VOTE – BRAIG – AYE; BURKE – AYE; SIKORSKI – AYE; KENNEDY – AYE; MOTION CARRIED UNANIMOUSLY.

John Braig:

Motion carries. The assessment is upheld. Jane, do you have all the proper information for the findings of fact determination?

Jane Romanowski:

Yes, I will deliver the Notice of Board of Review Determination to Mr. Danko right now.

John Braig:

Thank you. That concludes this hearing.

c. 10:30 a.m. Paul Krumrie

John Braig:

Please be seated. Do you have a completed objection form, Ms. Clerk?

Jane Romanowski:

Yes, we do.

John Braig:

Would you read it into the record please?

Jane Romanowski:

This is the objection form for Paul Krumrie, property address 4414 107th Place, Tax Parcel Number 92-4-122-261-0709. Total property assessment is $422,300. Explanation as to why the value is incorrect - purchase price on 4/6 was $345,000, and the appraised value was $400,000. Additionally a CMA was completed with a value of $380,000, high, and I'm not sure what that says, BPO with value of $380,000. In Mr. Krumrie's opinion the value should be $400,000. The property was purchased for $345,000 on April 6, 2012. No improvement have been made. The property hasn't been listed for sale within the last five years. An appraisal was completed on March 26, 2012 for the new purchase, and the appraised value was $400,000.

John Braig:

Thank you. This is a quasi-judicial procedure. We're obligated to uphold the assessor until we receive testimony to the contrary. And we have to evaluate that and make a decision. So at this point we'll ask the Clerk to swear you and the assessor in, and the testimony you provide is a matter of record.

Jane Romanowski:

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 state your name and address for each person that will be testifying under oath.

Paul Krumrie:

My name is Paul Krumrie, address is 4414 107th Place.

Ed Judt:

Ed Judt for the Village of Pleasant Prairie.

Rocco Vita:

Rocco Vita, assessor for the Village of Pleasant Prairie.

John Braig:

Thank you. Now you get your opportunity to make your presentation, they'll get their turn, and then a little exchange or questions in follow up, and then the Board will consider. The floor is yours.

Paul Krumrie:

I'd like to submit some supporting documentation.

John Braig:

Absolutely.

Paul Krumrie:

I have three forms of documentation I'm going to submit. One is just the actual appraisal that was completed in February. Another one is a CM Analysis that was completed back in the February time frame. And the third one is my individual own analysis of comparable sales [inaudible].

John Braig:

Okay.

Jane Romanowski:

For the record we will mark Mr. Krumrie's analysis Exhibit 1. We will then mark the CMA, the Comparable Market Analysis as Exhibit 2, and the appraisal report as Exhibit 3.

John Braig:

Thank you.

Paul Krumrie:

I don't plan to go into the details of the CMA Analysis or the appraisal. Those are just supporting documentation for your reference if you'd like to dig into those a little bit deeper. I did summarize from the key takeaways in my analysis. We'll start with my analysis. We recently purchased the home back on April 6th in the Whispering Knoll Subdivision. You may or may not know, the Whispering Knoll Subdivision was constructed back in 2004/2005 time frame during the housing boom. It got about half way constructed. I think there's approximately 40 lots in the subdivision. Approximately 50 percent of those have been sold, so it's kind of half developed, half not. The roads not fully surfaced yet either. The general landscape of the homes they're more sizeable homes, but more in the last build to grade type construction on the inside. A bit of a background.

If we jump to page 2 we summarized earlier, as Jane did, we recently purchased the home on April 6th for $345,000. It was full disclosure. It was purchased as part of a short sale transaction that required a short sale transaction, so I recognize that the value is not $345,000. It's probably somewhere in my opinion close to $400,000, and it was recently assessed at $422,300.

With that said we'll turn to page 3. Just to give you some background of the way of method I used going through it. I looked at recent sales prices in Whispering Knoll, looked at the appraisal, looked at the comparable sales. And my favorite quotes or favorite quote in the paper here from Rocco really stating that the market values remain unknown until a house is sold. I liked it because – and that was back on May 17th that the house did sell for $345,000 in April.

Turning to page 4 - page 4 really kind of sets up the overall analysis. I think what it looks at there's four different professional valuations that were done on the property. There's a CMA that was done by a real estate professional that offered a low recommended price and a high. There's obviously our purchase price of $345,000. Because it was a short sale the bank representing the seller wanted to do their due diligence to be sure they're getting a fair price for the home. They went out and hired a real estate agent to perform a BPO analysis on the home, and the BPO came back at $380,000. Our lender, our bank as required had us do an appraisal on the home. The appraisal came back at $400,000. And the final valuation was done by the assessor's office showing $422,000.

As you can see they're all professionals that have really done the analysis. I think what we can conclude nobody's process probably is perfect for doing it, though they are professionals. As people do they analyses we find they kind of pick and choose which properties to compare our property against. I tried to do something a little bit different with my analysis. Instead of trying to pick and choose different properties throughout the Pleasant Prairie area, I looked at every single sale that has happened in Whispering Knoll since the subdivision was constructed back in 2005, and then did some adjustments kind of based off the assessed values from the purchase prices. So I'll walk you through that. So the ranges really go from $330,000 up to $422,000 and the truth probably lies somewhere in between is my opinion.

We'll turn to page 5. This will give you a little bit of an idea of the listing history of this house before we purchased it on April 6th. As you can see it was on the market for 166 days. It was originally listed for $449,900 and subsequently dropped the price 22 days later to $439,900. It's worked it's way down to our final listing price of $359,900 which was on the market at that point for 48 days. I think some of the key takeaways on this one is if the home is truly valued at $422,000 and the market felt it was valued at $422,000 there was ample time for potential buyers to go in and make an offer of $422,000 or less. It was a significant time in the market at 166 days, close to half a year being on the market, plenty of opportunity. It was on the market actually for over 104 days at $400,000 or less with only one offer that came in which was our offer at the time. So I think it speaks volumes to kind of what the true market activity is out there for home sales.

We'll turn to page 6. Page 6 is kind of an eye chart. It's more of the numbers, but this is some of the heart of my analysis. What I wanted to really show here is really what the sales history is in Whispering Knoll Subdivision. We'll start in the upper left hand quadrant. What you can see is you can see every single home sale that's been in our subdivision since it was constructed. The first home sale goes back to April of 2007. To me some of the key observations when I'm looking at this data what I saw was there's really a couple themes. One is that there's only been three homes in that subdivision that have ever sold for $400,000 or more. There's only two that have sold for over $400,000. And the average time on the market was 603 days or 1.7 years which is significant I think. I'm not sure if that's fair, if that truly represents what the market is. I'll leave that for you guys to judge, but to me it's a significant amount of time to be on the market. I think it's pretty telling that there's only been three homes that sold for $400,000 or more, and they were anywhere from four to five years ago that they sold for those values.

What I tried to do in my analysis is I looked at those home sales and I said, okay, based on when those homes were sold and what the value of those homes were, what was the assessment at the time they were purchased versus what is their assessment today, and what has that change in value really been? So as you can see in the bottom half of the quadrant here, the three sales that I've got squared off, from the times those homes were purchased to the last assessment that I can see on MLS that's available to me, their assessed values have dropped anywhere from 18 to 20 percent which seems to be representative of a lot of the other home sales. Using my home as an assessment change in value from 2011 to 2012 the home value has dropped five percent I think which is representative of the Pleasant Prairie area for the most part in that ballpark, in that range.

So from the time some of these homes were purchased and they paid over $400,000 to these homes to the values today, if you look at their values have dropped 25 percent based on the assessor's own determination of their values, we adjust our sales price to what it would be in today's market, and you can see that they're all somewhere between $304,000 to $360,000. I labeled out the square footage on here as well so you can see their homes in retrospect to mine. My home is the last home, the one on the very bottom here that sold in April of 2012. So you can see their square footage comparable to mine. I fully admit their home is maybe a little bit of a smaller scale, but they're all in the same subdivision, all relatively close. There are none that are exactly perfect. I looked at our average sales price per square footage on these homes, and the average sales price per square foot adjusted was $109 on average.

So as I kind of summarize here, my key takeaways of the three homes that have sold for over $400,000 or more their average assessed values have fallen 24 percent since they were purchased dropping the current values between $305,000 to $360,000. Based on the average value per square foot what was sold at $109 it would put the value of my home at around $398,000. A lot of numbers. But really what I just tried to look at is all the home sales we had in Whispering Knoll and, once again, adjust based on what the values were at the time they were purchased to today.

To recap, my summary of kind of my overall analysis is that our home was listed on the market for 104 days at a price of $400,000 with no other offers. Eight homes have sold in that subdivision since it was built in 2005. Only three have sold for over $400,000, and those were back in '07/'08. When you adjust those homes they're on the market for an average of 1.7 years. And when you really look at what their assessed value was in '07/'08 to what it is today they've fallen 25 percent which puts them closer to the range of $305,000 to $360,000. Looking at the professional valuations of the CMA, the BPO, the appraisal and factoring in what our purchase price was, even though it was a short sale, they all support a value of $400,000 or less, and I'm recommending an assessed value of $400,000 on our property. With that I conclude my presentation of documentation.

John Braig:

Thank you. When you got these CMAs did you identify to your provider why you were asking for an analysis?

Paul Krumrie:

No the CMA was done by our real estate agent who was representing us in the purchase of the home. She did it for us at the time as our method to go ahead for making an offer on the home.

John Braig:

This is made as part of your offer to purchase?

Paul Krumrie:

It was part of our offer to purchase, correct.

John Braig:

Thank you.

Paul Krumrie:

The CMA was done prior to our offer to purchase. The appraisal was done in order to obtain a loan, and the BPO was done by the seller's bank to support a reasonable value for the home in the negotiation process.

John Braig:

Good, thank you. I must say you've made a good presentation with good information behind it. I see you put a little effort into it.

Paul Krumrie:

I did put some effort into it.

John Braig:

Thank you. With that we'll let the assessor make his presentation.

Rocco Vita:

I have a couple questions first before I get started.

John Braig:

Go ahead.

Rocco Vita:

The CMA, was that a Certified Market Analysis or what does that mean?

Paul Krumrie:

Comparable Market Analysis.

Rocco Vita:

Comparable Market Analysis. And that was performed by what realtor?

Paul Krumrie:

Sharon Martinez of Coldwell Bank Real Estate.

Rocco Vita:

Do you know how she came up with that recommended value of $355,750?

Paul Krumrie:

I guess what I can tell you is I didn't ask any of the professionals who did their valuations on how they came up with their recommended values. I leave it to their professional judgment on how they came up with these. And what I do look at is I look at – and that's why I try to steer away from relying on how they came up with these versus this is their professional opinion. I'll take it at face value. There's four different opinions that were done. And I looked at my analysis based on looking at all the sales –

Rocco Vita:

You didn't take our opinion at face value did you?

Paul Krumrie:

What's that?

Rocco Vita:

You didn't take our opinion at face value, did you?

Paul Krumrie:

I did actually. I didn't [inaudible] the analysis of $422,000. It was at the high end of the four valuations that were completed.

Rocco Vita:

I'm looking at page 5 of 9 of the Comparable Market Analysis, and I can see that she provided you five comparable sales all within Pleasant Prairie. They all have the listing price, days on market, sold date and the sold price. And then there's a column for adjustments to adjust the sales, the comparable homes to your homes, and then an adjusted sale price. And in here I don't see any adjustments. I just see that she uses the adjusted sale price as equal to the sale price. So I guess I'm wondering about the validity of the product if she's not recognizing differences in the assets sold.

Paul Krumrie:

I think that's a fair question for you to ask. Like I said, I wasn't so much interested in how they came up with it, more that I've got three different. I've got a BPO, I've got this and I've got our assessment in relation to our purchase price and the listing history that when I look at it in total is a little unbalanced compared to the $422,000 that you guys have presented.

Rocco Vita:

Then I'm looking at the appraisal which you seem to provide more weight. You have it highlighted on your page 4, and in fact the value of the appraisal of $400,000 equals your estimate of value of $400,000 even over your acquisition price which then you acknowledge is not necessarily arm's length.

Paul Krumrie:

It's arm's length in the fact that it was done to a third party, right? Arm's length is a third party transaction. We were engaged in a third party transaction. I was not related to the party who sold the property.

Rocco Vita:

On the appraisal I see she used three comparable sales. This is page 2 of the appraisal. All of them appear to be in – or two of them appear to be in Village Green Heights, and one of them appears to be in your subdivision. Am I reading that correctly?

Paul Krumrie:

I believe so, yes.

Rocco Vita:

And this appraisal is done effective March of 2012. This property sold a year earlier, comparable 1, May of '11, and she doesn't provide any time adjustment for a change in market over that 12 month or 10 month period. Do you know why she didn't provide any time adjustment?

Paul Krumrie:

I do not know why she didn't provide any time adjustment, but I can tell you your own assessed values from 2011 to 2012 have dropped five percent.

Rocco Vita:

Alright, and I see, again, there are no time adjustments in other comparables either. Okay, looking at the site description it describes your lot as having 20,038 square feet.

Paul Krumrie:

It's about half an acre.

Rocco Vita:

Comparable number two in your subdivision has 23,087 square feet, so it's about 3,050 square feet larger. She provides no change in assessed value or no adjustment for having a larger lot. Do you know why she didn't provide any adjustment because comparable two is a larger lot?

Paul Krumrie:

I'm not sure why she didn't provide an adjustment for it, but since their lot is larger than ours I think it would be fair to say that our lot would be valued at less than what their lot would be valued at.

Rocco Vita:

That would be a fair assumption. Further down I see quality of construction, Q2, Q2, Q2, do you know what Q2 means?

Paul Krumrie:

I do not. I'm not a professional appraiser. I didn't compile these reports. I just rely on the professional opinions of these reports as do the lenders who rely on them to provide loans.

Rocco Vita:

It must mean some sort of quality rank and I'm just not exactly sure. In the condition I see C3, C2, two lines, three lines down, C3, C2, C3, and I can see she provides a $25,400 negative adjustment for comparable one and a $20,000 negative adjustment for comparable three both being C2. What do you think those adjustments are for? What is the significance between C3 and C2? Do you have any idea?

Paul Krumrie:

Once again, I can't represent to you what the adjustments are for, but I trust the fact that she has a pretty serious responsibility to provide an accurate assessment to our mortgage lender. And I think we can sit here and nitpick this appraisal –

Rocco Vita:

I'm not nitpicking. I have questions about the appraisal and I'm asking for answers, that's all.

Paul Krumrie:

Yeah, I think if I had those professionals in here they could probably do the same thing with the assessment. Everybody has got their own opinion on what the value is worth, and I think there's various ranges. No process is perfect, right?

Rocco Vita:

I'm not saying that. I don't want to beat up on anybody. But I do know that this appraisal is the property of Waterstone Mortgage Corporation. You have a copy of it. I don't know if you asked for permission to provide this as evidence in the hearing today, or if the appraiser authorized the use or the client authorized the use of this for financing purposes in a property assessment appeal case. Secondly, I have nobody to ask about – I mean you're basing your opinion on $400,000, you're asking the Board to base their decision on an appraisal for $400,000, but we have nobody to ask about the product because nobody is here. You see the awkward position we're kind of put in?

Paul Krumrie:

Sure, that's fair.

Rocco Vita:

That's all I have to say.

Paul Krumrie:

I just submitted it as here's what their professional opinion was. I paid, obviously, for an appraisal. You pay for it and I assume I own the rights to it at that point.

Rocco Vita:

No, you don't.

Paul Krumrie:

Oh.

Rocco Vita:

Unfortunately.

Paul Krumrie:

I don't know that the law is exactly that clear on it but we'll see.

Rocco Vita:

You have a right to a copy of it.

John Braig:

Can our attorney make a comment in that regard?

Tom Camilli:

I think the assessor's question is valid. Generally I understanding this would be a back appraisal?

Paul Krumrie:

Correct.

Tom Camilli:

Generally it's the property of the bank. And my understanding is that if you intend to use the appraisal to support your position generally there needs to be some consent or permission given by the lender. I'm not so sure if that point is all that relevant here today. The appraisal is here. The Board can give whatever weight it chooses to the appraisal. I think the Board has to be guided by the sworn oral testimony, in other words the testimony provided by the objector. Obviously we don't have the appraiser here. We don't know if the bank has consented to the use of the appraisal. But, again, we don't have information to indicate that the bank – we don't know one way or the other. You can take it whatever you choose to.

John Braig:

We can go on forever pursuing minutia, but if a bank wanted to restrict an appraisal in any way, banks are pretty good, they've all got a bank of lawyers banking them up. I'm sure there would be some caveat or disclaimer or restrictions placed on an appraisal that they would hand out. And lacking that in my mind I think it's sort of a moot question. If they gave it to the man with no restrictions on it it's for his use for whatever purpose he'd want.

Rocco Vita:

For whatever he wants but not necessarily for the purpose of the Board. I mean the product was produced on the Uniform Property Appraisal Practices and it's for a certain client and for a certain objective and for a certain purpose.

Jill Sikorski:

Certain audience.

Rocco Vita:

It wasn't for the purpose of a property tax appeal. Now, it does state this is the value of the property. That's their opinion, that's fine. All I'm asking was whether he was provided permission to use it in a venue it wasn't created for. I think he answered that question and the answer was no.

John Braig:

Good enough.

Paul Krumrie:

That's fine if we want to strike the actual appraisal itself. But I think using the value that came out of it is okay.

Rocco Vita:

I'm not going to. I think you gave the appraisal and the Board needs to consider it.

Paul Krumrie:

Sure.

John Braig:

We'll factor it in as we feel appropriate.

Paul Krumrie:

To me most of the evidence and most of the weight for the position I'm trying to support today is really based on just pure sales that have happened in Whispering Knolls since it was constructed back in the 2005 time frame, the MLS listing history on the property as well.

John Braig:

Now, that was questions. Now, are you going to make a presentation now?

Rocco Vita:

Yes, I'm referring it to Mr. Judt.

John Braig:

Go ahead.

Ed Judt:

I'm handing you our comparable analysis. Let me make a couple of comments about it before we start. I'm going to refer back to the appellant's documentation and page 6 of the appellant's documentation. That is the document that looks like –

John Braig:

He's got three.

Ed Judt:

Okay, in the upper half of that page he gave you some sales history. You know for purposes of this reassessment we are using sales that occurred in 2010, 2011 and in the very early part of 2012 up until we were actually doing our analysis and setting our values. So you see four transactions there in that time period, two in July of 2011, one in September of 2011 –

John Braig:

Ed, where are you?

Ed Judt:

I'm sorry. I am on page 6 of the appellant's documentation, exhibit number something.

Jane Romanowski:

That was Exhibit 1.

Ed Judt:

Okay, Exhibit 1. Again, top of the page, sales history, and I don't know that this is a comprehensive list, but I'll take Mr. Krumrie at his word. Again, he lists four sales there that occurred in the time period from which we drew sales for purposes of arriving at our new values, two in July of 2011, one in September of 2011, and then his own purchase in April of 2012. The two July of 2011 sales you're going to see in our comparable analysis. We believe those to be valid sales and representative of the market. The September 2011 sale we did not include in either our comparable analysis or in our list of what we deem to be valid sales. That is actually comparable number two in his own appraisal. That was a foreclosure. The transaction that's being used in the appraisal is actually a case where Fannie Mae was reselling the property. And, as you know from the 2010 assessment, and our policy has not changed, I'm not using any bank-related transactions whether they're short sales, deeds in lieu of foreclosure, post foreclosure sales and obviously not foreclosure sales themselves. So just to put my landscape on that list of sales.

Just gain to kind of embellish Mr. Krumrie's history of the development a little bit there have not been a lot of sales in there because remember this thing started life as sort of a builder exclusive subdivision. You had to buy a house and lot package in there originally. And, in fact, I will tell you, not that it has any bearing, but I can, the original contract on Mr. Krumrie's house back in 2006 was for $564,000.

John Braig:

That's total.

Ed Judt:

That's total. And so there has not been a lot of – again, I don't know the total number of houses in there. It's probably about 20. Would you agree with that?

Paul Krumrie:

Yes, I agree. There's 40 lots.

Ed Judt:

Somewhere in that range. So you've only got 20 houses, and there really has not been a lot of after market sales activity. So with that I'm going to refer you to our document, our comparable sales grid that the parcel under question is Parcel Number is 92-4-122-261-0709 located at 4414 107th Place. This property is 20,008 square feet. It is located in Whispering Knoll Subdivision. It's a modern two story home, C plus quality. It was built in 2006. It's in good condition. It is typical for this subdivision. The basement is 1,949 square feet. There is basement living area of 1,286 square feet. First floor 1,949 square feet. Second floor is 1,690 square feet. And I've been telling you for years that I'm going to add those two numbers up on this document and I still have not done that. So let me. So you have a total size above grade of 3,639 square feet.

Paul Krumrie:

Which is consistent with what I show here.

Ed Judt:

Four bedrooms, four family rooms. I know that looks rather odd but that might include a number of different rooms including the family room, a den, rooms in the basement for instance, in that finished part of the basement. There are four full bathrooms, one half bath. The house has a whirlpool, a fireplace. It is a combination of masonry and non-masonry construction on the outside. We rate the kitchen and the baths as good. It has gas forced air heat. It has central air conditioning. There are six additional plumbing features. There's an attached garage of 605 square feet. There is a porch and a deck.

Comparable number one is a house in Whispering Knoll Subdivision. It is Parcel Number 92-4-122-261-0725 located at 4453 107th Place. This house sold in July of 2011 for $343,000. It is on a site of 20,174 square feet. Again, in the same subdivision as the subject, Whispering Knoll. It is a modern two story, C plus construction, built in 2008. Good condition, design and utility. It has a full basement. It has first floor of 1,555 square feet, and a second floor of 1,061 square feet for a total size above grade of 2,716 square feet. There are four bedrooms, two family rooms, two full baths, one half bath. There is no whirlpool. There is a fireplace. The exterior on this house is vinyl. Kitchen good, bath good, gas forced air heat, central cooling. There are some additional plumbing fixtures as well.

We have a masonry adjustment on this. When there is a substantial amount of masonry on a house we'll describe it as being that combination of masonry and something else whether it's vinyl, aluminum, cement board. When the masonry ornamentation on the house in minor, we will simply make an adjustment for it based on the amount that's there. That's the reason you see the two different we're describing the subject and the comparable sale here. This house also has a porch, a deck. And taking into account all those adjustments you arrive at an adjusted sale price in this case of $404,900 down there in the second to the last row of the spreadsheet.

The second sale also comes from Whispering Knoll Subdivision. It is Parcel Number 92-4-122-261-0739 at 4689 108th Street. This house sold for $370,000, again, in July of 2011. This is on a site of 22,997 square feet. Again, same subdivision as the subject. Modern two story C plus construction built in 2005. This house is in good condition. We give this an adjustment for inferior utility. I need to recall why. We'll come back to that. 1,500 square feet in the basement, 1,500 square feet on the first floor, 1,312 on the second floor for a total of 2,812 square feet in total above grade. Notice that both of the sales here in the subdivision do not have any living area in the basement as the subject does resulting there in a fairly substantial adjustment in both cases.

Four bedrooms, two family rooms, two bathrooms, a half bath, a whirlpool, fireplace, masonry frame construction again. Rate the kitchen and baths as good. Gas forced air heat with central air. There is an attached garage here, a porch and a deck. Again taking into account all those adjustment results in an adjusted sale price in this instance of $444,500.

Comparable number three is actually comparable number one from the appellant's appraisal. Obviously we had to look for a comparable in another subdivision because, again, the two sales that I just shared with you are the only two valid sales that occurred in Whispering Knoll in the previous two or so years. This house is actually in Village Green Heights Subdivision. It is Parcel Number 92-4-122-233-0156 located at 10130 48th Avenue. This house sold for $508,000 back in June of 2011. It sits on a lot of 18,508 square feet. Again, it's in Village Green. It's a modern two story. This is a B plus quality home, significantly higher quality, and so you see a fairly drastic adjustment for that there. This house was built in 2007. Good condition. Typical utility. It has a basement of 2,160 square feet. This house does have a substantial amount of living area in the basement at 1,194 square feet. First floor 2,160 square feet, second floor 844 square feet for a total of 3,004 square feet above grade.

This house has five bedrooms, two family rooms, four bedrooms – I'm sorry, four baths, one half bath, a whirlpool, a fireplace, masonry frame exterior. We rate the kitchen and the baths as good. Gas forced air heat with central air. You have an attached garage, a porch and a patio. And, again, taking into account all of those differences results in an adjusted sale price of $422,200. Averaging those three we have a value, again, based on adjustments to these three specific sales we have an adjusted value of $423,900.

John Braig:

Thank you.

Rocco Vita:

One other thing. I'm going to hand out Exhibit 5. This is a history of all the improved sales in Whispering Knoll Subdivision since 2006, inception of the subdivision. We have acknowledged [inaudible] that Mr. Krumrie [inaudible]. In fact, the old acquisition in 2006 of $564,200 is one third more, 34 percent more than its current assessment as it is today at $422,000. But there are a lot of sales over $400,000. In fact, all the sales were over $400,000 until we got to the last three in the most recent years.

Ed Judt:

I told you we'd revisit that second comparable. That sale is actually what was initially used as the model home in the subdivision, and it is right there at the corner of 108th Street and 47th Avenue. The reason for that adjustment, we make an adjustment both to the house and to the lot because it is situated there on 47th Avenue not within the subdivision, and that's the reason we're describing it as somewhat inferior to the more typical homes in the subdivision. And Rocco is going to highlight there for you in a second I think.

Rocco Vita:

We'll try. It's slow. There we go. It's this corner over there.

John Braig:

What's the roadway to the left, north/south?

Ed Judt:

47th Avenue.

John Braig:

Thank you.

Paul Krumrie:

Can you please repeat why you thought it was inferior?

Ed Judt:

Because of its location there on 47th Avenue - 47th is a minor collector road, and that lot experiences greater traffic noise than you do for instance.

Paul Krumrie:

As I drive by that street every day, there's some very nice homes on that street. There's one currently for sale right now in the $600,000 plus price range.

Ed Judt:

Sure, sure. But, nonetheless, two things. First of all, our land values initially were based on the relative asking price, and Whispering Knoll did sort of have an asking price list for lots initially even though they were only selling house lot packages. So to some degree that drove our value. The other thing is we obviously don't include those other homes on 47th Avenue in Whispering Knoll Subdivision. And since this property is something of a hybrid being in Whispering Knoll but being more similar to the homes that are on 47th Avenue and on other thoroughfares and collectors in the Village, we make an adjustment to make that value somewhat more representative of how we would be valuing those properties.

John Braig:

That concludes the presentation. Now it's open for questions back and forth. Do you have any questions of the assessor?

Paul Krumrie:

I do, yeah, I've got a couple. So just to clarify things, Exhibit 5 that you recently just passed out here with all the home sales in Whispering Knoll, would you guys agree that the difference between the sales prices that I showed versus this list here, this list includes all the new home sales, like all the new construction sales? I pulled mine off of MLS.

Rocco Vita:

This list is the comprehensive list of home sales that occurred – the actual transactions when a real estate transfer transaction was filed with the Register of Deeds in Kenosha County. That's what this list indicates, valid sales.

Paul Krumrie:

Versus my list is just an MLS list.

Rocco Vita:

I don't know what your list is.

Paul Krumrie:

My list was pulled from MLS which would be all sales after the house was originally acquired and then re-sold again. So this includes newly constructed homes along with transfer homes, versus my list is just transfer homes only.

Ed Judt:

And I'll agree with that. That includes those original contracts.

Paul Krumrie:

Yes, that's fair. So a couple questions I have here. When you do your comparables and you adjust for the basement square footage and the value of that, the basement square footage area representing from my house of 1,949 square feet?

Ed Judt:

No, well the basement square footage.

Paul Krumrie:

Okay, so you adjust your living space to 1,286 which is fair. In comparable number one, the house that sold in 2011, you had an adjusted sale price of $404,900. You make an adjustment for the drop in value from when it was sold to this year, to the 2012 assessment?

Ed Judt:

We do.

Paul Krumrie:

And where is that adjustment?

Ed Judt:

That is in the first line in the value adjustment section. You'll see the date there of July of '11, that negative $7,700 represents a time adjustment.

Paul Krumrie:

So the $7,700 is about two and a half percent. My assessment, if it's representative dropped five percent in value. Most of the assessments in Pleasant Prairie have been three to five percent range drop in value. So this in my opinion is pretty understated by two and a half percent which would drop the price another $7,500 below $400,000.

Ed Judt:

Well, you're talking about a five month adjustment.

Rocco Vita:

It's a five month adjustment. It's for the time between July and January of 2012. So the decline in value in August, September, October, November, December.

Paul Krumrie:

Sure. One of the comments that you made, I think Ed, is that as part of your overall assessment you looked at lot sales prices, is that correct?

Ed Judt:

Say that again?

Paul Krumrie:

One of the comments I think that you made is that you looked at lot sale prices as part of your overall –

Ed Judt:

What I said was the way that we originally described the lots and we continue to describe them that was partially based on the relative asking prices of the developer when they developed the subdivision way back in 2005. Yes, that is still true.

Paul Krumrie:

Okay, I thought you more recently made a separate comment around when you came up with the assessment you looked at what the open lot sales prices now independent of the [inaudible].

Ed Judt:

Right. And we look at those sales relative to the descriptions of those lots, and we change the lot values accordingly. So the lots are not valued on let's say the unit rates that were being used by the developer in 2005, but the relative values remain approximately the same as they did back then. And that was the reason for the adjustment on the former model home sale. You have two lots to the north there on the other side of 108th Street, I'll suggest to you that those are valued similarly.

Paul Krumrie:

I'm sorry, can you please clarify that. Are you saying that the lot values are valued the same approximately as what they were when –

Ed Judt:

In terms of value?

Paul Krumrie:

In terms of value.

Ed Judt:

No. But in terms of relative value yes.

Paul Krumrie:

And how are you defining relative value?

Ed Judt:

Well, you know –

Rocco Vita:

To each other.

Ed Judt:

To each other, yeah. That is to suggest that if you have a lot that was valued significantly higher than another lot in 2005 that would still be true in 2012 except that both values would be substantially lower than they were then.

Rocco Vita:

On the subject property the land value was $122,300 in the 2008 revaluation. In the 2010 revaluation it was reduced to $103,400. In the 2012 revaluation it was reduced to $84,500 showing a decline in value over that period of time. When you look at the property owner's appraisal on page 3, the appraiser's opinion of site value is in excess of $100,000. So our site value is a little less than the opinion of the appraiser who performed his appraisal.

Paul Krumrie:

I don't know about you guys but there's a lot of numbers being thrown out and a lot of facts. It's all starting to get pretty blurry here. But it's just interesting to look at the appraisal that was done by the bank which I think is number three versus the appraisal or the assessment that you guys performed on your comparable number three which happens to be the exact same property. We've got two professionals. The assessor's office came up with a value of $423,900, and the appraisal company came up with a value of $504,820, a difference of approximately $80,000 by two professionals. So I think what it speaks to is even the best professionals come up with a lot of different opinions of what the true valuations are. It's very subjective in how we're coming up with these. But I think if you look at the overall breadth of the analysis, looking at the number of appraisals that support a value and purchase price less than $400,000 versus the one assessment or the one valuation that has a price over $422,000 it's hard to weigh the one valuation of $422,000 versus the other valuations of $400,000 or less.

John Braig:

I get your point, but it is relatively simple when you reflect on the fact that we are dealing with one entity, namely the Village Assessor's office who uses a procedure and a technique that provides an end result. On the other hand, objectors, and it's you and many others, are relying on various professionals with different approaches and different techniques. And there can be a significant variation from one to another. But what's significant when the Village Assessor's office does something is he's using the same formula, the same guidelines, the same rules. And even if his assessment is half or double what commercial entities would create, the essence of the law is that he uses the same technique for everyone.

I've got a daughter out in Arizona. Her assessments are about 10 percent, well I don't know for sure, but from my observation it looks like it's a fraction of what market value is. But as long as the technique and the procedure to go through this is equal to everyone, the net result which is obviously the taxes you pay, is proper and fair for all parties.

Paul Krumrie:

I believe the technique is proper and fair and I respect that and appreciate that. One of the things I'm not challenging is the technique. But what I'm objecting to is just the value that came out of that technique versus the listing history that is on the market 466 days versus the other sales that happened in Whispering Knoll. So based on that data the value suggests that the true value itself is closer to $400,000 if not less. I think I'm being fair and reasonable by settling on $400,000 given that the other professional valuations were $400,000 or less.

John Braig:

Before I close the hearing do you have anything – Ed?

Ed Judt:

Could I respond to that last.

John Braig:

Go ahead.

Ed Judt:

The point regarding the appraisal, Mr. Krumrie referred to comp one in his appraisal and comp three in our appraisal which are the same property. And he pointed out to you that the adjusted sale price on comp one in his appraisal was $504,000, and the adjusted price in ours was $422,000. Let me take you back to one of the questions Rocco asked. Just go back and look at that quality of construction line, that Q2 as she describes the subject property and describes all these properties. But she also describes the first comparable the same way and makes no adjustment for differences in quality.

Now, I'll tell you that when Mr. Krumrie and I discussed this comparable he said to me that's a much nicer house than mine. And I said, yes, absolutely it is and we're accounting for that. The appraiser did not. If the appraiser did hypothetically and made the same $73,500 adjustment to that comparable, she would have an adjusted sale price of about $430,000 as opposed to $504,000.

Paul Krumrie:

I think if she would have done that, though, the overall appraisal would have come in less than $400,000 if she would have done that.

Rocco Vita:

And she couldn't do that because she couldn't make that much of a magnitude of an adjustment. They're constrained by how much they can adjust the property. So they're put between a rock and a hard place when there aren't a lot of sales. They're finding sales that are as comparable as possible, but they have to minimize their adjustments otherwise their adjustments are too large saying they're not comparable and they can't be used. Assessor's aren't constrained by the rules of the underwriters of the financing world.

Ed Judt:

But furthermore take a look at that appraisal again and you've got, ignoring that point, you've got an adjusted sale price of $504,820. On comparable three you have an adjusted sale price of $426,800. And we reject sale number two, the middle sale that she adjusts to $372,000 because it was a bank resale, a Fannie Mae resale. That leaves you with two adjusted sale prices of $504,000 and $426,000. Make of that what you will.

Paul Krumrie:

And in your subjective opinion you're rejecting it, but I think foreclosures do have a profound effect on the value of homes in our market. They don't help increase the value of the homes in the neighborhood. As we all know they decrease the value of the homes in the neighborhood. And we've had a couple foreclosures in our neighborhood and it has brought down the value. If we're going to bring the comp one down to $430,000, I would have to believe her overall appraisal would have come down to less than $400,000.

Rocco Vita:

Mr. Krumrie is correct that foreclosures do have a negative effect on market value in the community because other homes are competing with that market so they have to lower their prices. And so fair market value, fair market sales, arm's length transactions have to compete in a market where a seller is compelled to sell. We're not using the foreclosure sales. The Department of Revenue doesn't want us to use the foreclosure sales because it is not the typical sale yet in the Village of Pleasant Prairie. But the sales that compete with that are being used, and they have to lower their sale prices and that's really the product or the catalyst for the declining values, more supply than demand.

And before we end then I would just ask the Board, well the information provided by Mr. Krumrie, the exhibits, should be considered the fact that the CMA, the Comparable Sales Analysis has really no statistical adjustment or statistical basis. I would ask that the Board, our office would ask that the Board provide very little if any weight. And as for the appraisal simply because we're all put in the awkward position to guess about what the intent of the appraiser was, and the fact that if we eliminate from the appraisal comparable number two which was a Fannie Mae sale, the adjusted sale prices would support our assessed value that they really give as little weight as possible for the $400,000 adjusted by the appraisal.

Paul Krumrie:

Can I respond to that?

John Braig:

Go ahead.

Paul Krumrie:

I think it's fair if you want to throw one out and try to discount the analysis, but when you start throwing out two and challenging two, the overall – even looking at the CMA analysis and discounting that, I would discount it if the numbers that came back were completely outside of our range of where the other valuations came in at. But it came in right at the heart of where the other valuations came in. So I think there's some validity to that one. I think there's some validity to the BPO that came back from the seller's bank showing a price or value of $380,000. So it's within the realm and within the range. There's a high end and there's a low end, and the assessor's office is on the high end. The CMA is on the low end, and we've got to find the truth. Thank you.

Rocco Vita:

I can fully appreciate Mr. Krumrie's position. But the fact is when the document is here and no one that created the document is here to support it, it becomes hearsay evidence, and we're all aware of that. I don't want to beat it any further.

Paul Krumrie:

Other professions are dependent upon this.

John Braig:

Before I close the hearing portion of it do you have any more to add?

Paul Krumrie:

No, I just appreciate you guys taking the time to hear our evidence. Thank you.

John Braig:

Thank you. And the assessor's office?

Ed Judt:

We're done.

John Braig:

You're finished. With that the hearing is closed and we'll open it up to comments and questions on the part of the Board. Bear in mind our obligation is to uphold the assessor's assessment unless we find the evidence that has been presented indicates to the contrary. I am influence by basically the comment I made before. The assessor's procedures and techniques, and absolute or not as significant as the relationship to all the other residents or property owners in the Village. And as long as the same techniques and procedures which, of course, are following State requirements and mandates, as long as they're followed properly then the end product should end up equitable for all concerned.

James Kennedy:

I would say, Mr. Krumrie, that I've been on this Board three years and I think other than real estate attorneys you've done a better job than anyone else. So thank you.

Paul Krumrie:

Thank you. If I don't have a chance nobody does?

John Braig:

That's not quite true.

James Kennedy:

We have overridden the Assessor's valuation several –

John Braig:

We've had a surprising number of adjustments.

James Kennedy:

Yeah, several times.

John Braig:

Lacking further comment on the part of the Board that indicates that apparently sufficient evidence hasn't been presented to anyone to convince them we should alter or overrule the assessor's evaluation, if so a motion would be in order.

James Kennedy:

I would move that we accept the assessor's assessment for Parcel Number 92-4-122-261-0709.

Jill Sikorski:

I'll second.

John Braig:

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

John Burke:

Yes.

Jill Sikorski:

Yes.

James Kennedy:

Aye.

KENNEDY MOVED TO UPHOLD THE ASSESSOR'S VALUATION ON TAX PARCEL NO. 92-4-122-261-0709, ADDRESS OF 4414 107TH PLACE, OWNED BY PAUL KRUMRIE IN THE TOTAL AMOUNT OF $422,300; SECONDED BY SIKORKSI; ROLL CALL VOTE – BRAIG – AYE; BURKE – AYE; SIKORSKI – AYE; KENNEDY – AYE; MOTION CARRIED UNANIMOUSLY.

John Braig:

Motion carries. With that does the Clerk have enough information to present the findings of fact, determinations and decision?

Jane Romanowski:

Yes, I will deliver the notice of determination to Mr. Krumrie right now.

John Braig:

Thank you.

4. ADJOURNMENT

SIKORSKI MOVED TO ADJOURN THE BOARD OF REVIEW TO JUNE 14, 2012 AT 9:00 A.M.; SECONDED BY BURKE; MOTION CARRIED UNANIMOUSLY AND MEETING ADJOURNED AT 12:05 P.M.