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# ROBERT BROOKS

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STATE REPRESENTATIVE • 60<sup>TH</sup> ASSEMBLY DISTRICT

**Senate Committee on Economic Development, Commerce, and Local Government  
Public Hearing, May 3, 2017**

Senator Feyen and members of the Senate Committee on Economic Development, Commerce and Local Government, thank you for affording me with the opportunity to testify on behalf of Senate Bill 158, relating to a property owner's right to refuse entry into his or her home for assessment purposes and conditions for appearing before the Board of Review.

Senator Dave Craig and I drafted Senate Bill 158 to confirm that homeowners have the right to deny entrance to a property assessor while not forfeiting their right to appear before the Board of Review. Current law stipulates that a property owner may deny entry to an assessor if the owner has given prior notice to the assessor that he or she are not permitted to enter the property.

At this writing, if homeowners deny an assessors entry into their abode, they forfeit their right to challenge an increased assessment before the Board of Review. This legislation not only provides homeowners with information confirming their property rights, but also allows them to preserve their right to appear before the Board of Review.

Additionally, Senate Bill 158 extends the right to appear before the Board of Review if a property owner fails to comply with the request to provide income information related to the property. For too long, property owners have been strained with complex and confusing income reporting requirements from some municipalities. According to Senate Bill 158, if property owners do not provide an assessor with income information, they will still retain their rights to challenge an increased assessment before the Board of Review.

I encourage your support of Senate Bill 158. At this time, I would be happy to answer any questions you might have. Thank you for your time and consideration.

# Brooks bill would benefit homeowners over assessors

## No access would not lead to penalties

By Melanie Boyung  
News Graphic Staff



"There's any number of reasons you wouldn't want an assessor in your home at a given time."

—Robert Brooks,  
District 60 State Representative

MADISON — Homeowners' tax assessments may come with additional rights next year.

Rep. Robert Brooks, R-Saukville, introduced a bill this week affecting how property owners who disallow assessor access to properties can challenge tax assessments.

"(Property owners) don't let them in, or they didn't provide income information when they requested, so it's a two-part bill," Brooks said.

Property owners have the right to refuse an assessor access to the inside of their homes, or to not provide rental property income information. Under current Wisconsin law, that refusal forfeits the owner's right to object to a tax assessment at the Board of Review, which each municipality has for the purpose of assessment objections.

The bill Brooks proposed would give people the right to contest property assessments, even if they refused to allow an assessor access to the inside of their home. It would also require assessors to give specific notice of homeowners' right to refuse entry.

"There's any number of reasons you wouldn't want an assessor in your home at a given time," Brooks said.

"You didn't let us into your home, you have no right to argue your assessment.' To me that's just wrong," he added.

Mike Grota of Grota Appraisals — the firm that contracts with Mequon, Thiensville and the towns of Cedarburg and Grafton for appraisals — said outright refusal is fairly rare from homeowners. More often, he said, the assessors just never hear back about notices of an appraisal being done.

The home is then assessed based on the best information available, according to Grota: building plans, work permits, previous assessment record and homeowner information.

"The homeowner may not allow us to go through the property, but they may discuss the inside," Grota said.

The bill was triggered by a lawsuit in the town of Dover, according to Brooks. In a 43-property subdivision, the four properties to which assessors were not given access had assessments increase by a 10.01-percent average, while valuation in the rest of the subdivision decreased by a 5.81-percent average, according to the complaint.

The new legislation would specifically prohibit assessments being raised as a penalty for refusing access.

"It was happening all over the state," Brooks said.

Grota said he agreed that homeowners should have the right to refuse access without penalty and to challenge an assessment they disagree with, though it will likely create additional work for assessors. If they specifically notify each homeowner of their right to refuse inspection, there will likely be many more who do so.

The assessors would then assess based on the information available in records, though that also creates an opportunity for those who improve their homes without pulling permits or following plans on record to hide increases of value; they avoid higher taxes to the detriment of other taxpayers.

"What it could do over time, is it could deteriorate the uniformity and equity of assessments," Grota said.

"It's never about invading someone's privacy, it's about getting the record correct for a fair and reasonable assessment," he added.

Brooks said the bill, if passed, will likely be implemented next year.

Email: mboyung@conley.net



Jeffrey D Yoder  
City Assessor

**Office of the City Assessor**

Phone (262) 335-5125  
Fax (262) 306-3102

assrasst@ci.west-bend.wi.us

Todd R Timm  
Assistant Assessor

December 2, 2016

Dear Commercial Property Owner:

The City of West Bend will be collecting income & expense data for analysis and to assist in setting fair market values of commercial properties. Depending on the data received and economy, we are considering a city wide revaluation for January 1, 2018. We have enclosed an income and expense questionnaire and ask you to complete it and **return it to our office by April 15, 2017**. We are also requesting a copy of the current lease.

This information will not be available to anyone outside the assessor's office, it is confidential. In addition to the questionnaire you will also find the City ordinance (Ord. No. 2367) relating to the confidentiality of these documents. All information received will be marked **CONFIDENTIAL** and be kept out of the general property files.

Failure to return the completed form will result in denial of your right to contest your assessment if you should feel it is incorrect. According to Wisconsin state statutes:

70.47 (7)(aa): No person may appear before the board of review, testify to the board by telephone or object to a valuation: if that valuation was made by the assessor or the objector using the income method: unless the person supplies to the assessor all of the information about income and expenses, as specified in the manual under s. 73.03 (2a), that the assessor requests.....

Also noted in this statute is the provision that the municipality creates an ordinance for the confidentiality of income and expense information. As noted previously the City has already created the ordinance, and the Assessor's office has set a procedure to secure the confidentiality of this information.

Your cooperation is greatly appreciated to assist us in providing fair and equitable assessments. If you should have any questions or concerns, please do not hesitate to contact us. The office hours are Monday – Friday, 8:00 am. to 4:30 p.m.

Sincerely,

*Jeffrey D Yoder*

Jeffrey D Yoder  
City Assessor

Enclosure

ORDINANCE NO. 2367  
2000 - 2001 COMMON COUNCIL  
Relating to Confidentiality of Information  
About Income and Expenses Requested by Assessor

----- Recitals:

- A. As part of the Budget Adjustment Act, 1997 Wisconsin Act 237, a number of significant changes regarding property tax assessment appeals and Board of Review procedures were enacted.
- B. Act 237 created section 70.47(7)(af) of the Statutes which requires that the City provide by ordinance for the confidentiality of information about income and expenses provided to the Assessor under section 70.47(7)(af) and exceptions for persons using the information in the discharge of duties imposed by law or the duties of their office or by order of the court.

Ordinance:

Therefore, the Common Council of the City of West Bend, Washington County, Wisconsin do ORDAIN that sec. 1.10(3) of the Municipal Code of West Bend, Wisconsin is created to read as follows:

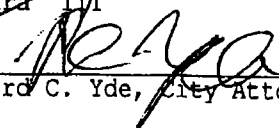
- (3) Confidential Business Records. (a) Whenever the Assessor, in the performance of her duties, requests or obtains income and expense information pursuant to section 70.47(7)(af), Stats., or any successor thereto, then such income and expense information provided to the Assessor shall be held on a confidential basis, except that the information may be revealed to and used by persons:
  - 1. In the discharging of duties imposed by law;
  - 2. In the discharge of duties imposed by office (including, but not limited to, use by the Assessor in performance of the Assessor's duties and use by the Board of Review in performance of its duties); or
  - 3. Pursuant to order of a court.

(b) Unless a court determines that it is inaccurate, income and expense information provided under this subsection is not subject to inspection and copying as a public record.

  
Michael R. Miller, Mayor

Attest:   
Barbara A. Barringer, City Clerk

Introduced by Ald  on the 5th day of June, 2000.

Approved as to Legality:   
Richard C. Yde, City Attorney

Published on the 16th day of June, 2000.



**CONFIDENTIAL  
INCOME / EXPENSE QUESTIONNAIRE  
FOR MULTI-FAMILY RESIDENTIAL PROPERTY (1)**

Office of the City Assessor  
1115 South Main Street  
West Bend, WI 53095  
Phone 262-335-5125  
Fax 262-306-3102

**INFORMATION PROVIDED IS CONFIDENTIAL AND NOT AVAILABLE FOR PUBLIC INSPECTION**

Parcel Number: \_\_\_\_\_

Property Address: \_\_\_\_\_

**RENT SCHEDULE**

Use separate lines to list different types of units with respect to bedroom and bathroom counts, size or rent. To assist you and to insure uniformity in the information received, please observe the following instructions:

- |          |  |          |   |
|----------|--|----------|---|
| Column 1 | Number of bedrooms.                        | Column 5 | Number of units of this type that are presently vacant. |
| Column 2 | Number of bathrooms.                       | Column 6 | Actual <u>monthly</u> rent                              |
| Column 3 | Size of the unit expressed in square feet. | Column 7 | Monthly rent you would ask if units were vacant.        |
| Column 4 | Number of units of this type.              | Column 8 | List any additional pertinent information.              |

A copy of your current rent schedule may be attached in lieu of completing the schedule below if it provides all of the information required in Columns 1 through 8.

Type		Size (3)	Quantity (4)	Vacant (5)	Rent		Remarks (8)
Beds (1)	Baths (2)				Actual (6)	Market (7)	
<b>Property Totals</b>							

**OTHER MONTHLY INCOME**

Laundry		Forfeited Security Deposit	
Vending		Other (please specify)	
Parking		Other	
Storage		Other	
<b>Total Monthly Other Income</b>			

**GENERAL INFORMATION**

Are units separately metered for gas? Yes \_\_\_ No \_\_\_ Electricity? Yes \_\_\_ No \_\_\_

Indicate (x) if rent includes Gas? \_\_\_ Electricity? \_\_\_ Water? \_\_\_ Garbage? \_\_\_ Storage? \_\_\_

Does rent include parking? Yes \_\_\_ No \_\_\_ If No, what is monthly rent per space? \$ \_\_\_\_\_

How many parking spaces? \_\_\_\_\_ (include total parking revenue in OTHER MONTHLY INCOME above)

How many units have the following items provided? Refrigerators \_\_\_ Free-standing range/oven \_\_\_  
Washer \_\_\_ Dryer \_\_\_

Has property been listed for sale? Yes \_\_\_ No \_\_\_ Date \_\_\_\_\_ Asking Price \$ \_\_\_\_\_

Are any rents subsidized by federal/state programs? Yes \_\_\_ No \_\_\_ If yes, please provide details on a separate sheet.

*Please Complete Other Side*

## EXPENSES

Enter the annual expense for the items listed. Round to the nearest dollar. If you list Other Expenses, describe the expense in the space provided. Use estimates if actual data is not available. Prorate expenses that do not occur annually. **DO NOT include depreciation allowance, mortgage payments or real estate taxes as expenses.**

<b>(1) MANAGEMENT</b>	On-site Manager's Salary & Benefits			
	Off-site Manager's Salary & Benefits			
	Other Wages & Salary			
	Insurance			
	Accounting & Legal			
	Marketing (advertising, commissions, etc.)			
	Office / Telephone			
	Other (Specify)			
<b>(2) UTILITIES</b>	Gas & Electric - Common Area			
	Gas & Electric - Rental Units			
	Sewer / Water / Garbage			
	Other (Specify)			
<b>(3) SUPPLIES</b>	Office			
	Janitorial / Custodial			
	Pool			
	Other (Specify)			
<b>(4) MAINTENANCE &amp; REPAIRS</b> <i>DO NOT include expenses listed below Under (6) Reserves for Replacement</i>	General Repairs			
	Decorating			
	Elevator / Air Conditioning			
	Pool			
	Grounds / Snow Removal			
	Other (Specify)			
<b>(5) OTHER EXPENSES</b>	Specify			
	Specify			
	Specify			
			<b>Total (1) - (5)</b>	
<b>(6) ANNUAL RESERVES FOR REPLACEMENT</b> <i>DO NOT include items listed in (4) above</i>	Mechanicals & Roof			
	Decorating			
	Other (Specify)			
	Other (Specify)			
	Other (Specify)			
			<b>Total (1) - (6)</b>	

## PERSONAL PROPERTY

If you have leased equipment, machinery, appliances, etc. on the premises, please list Lessor(s) name, address and phone:

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## REMARKS

Name (Print)

Phone

Signature

Date



**CONFIDENTIAL**  
**INCOME / EXPENSE QUESTIONNAIRE**  
**FOR GASOLINE / CONVENIENCE OPERATIONS (5)**

Office of the City Assessor  
1115 South Main Street  
West Bend, WI 53095  
Phone 262-335-5125  
Fax 262-306-3102

**INFORMATION PROVIDED IS CONFIDENTIAL AND NOT AVAILABLE FOR PUBLIC INSPECTION**

Parcel Number:

Property Address:

**BUILDING INFORMATION**

Gross Building Area in sq ft	Area Currently Leased
Gross Leaseable Area	Area Currently Vacant

**INCOME**

	2000	1999	1998
Base Rent			
Sales Percentage Rent			
Expense Reimbursements*			
Other Income (specify)			
Other Income (specify)			
<b>Total Income</b>			

\*Do not include reimbursements for real estate taxes

**INCOME PARTICIPATION**

Describe sales percentage rent and/or any other provisions for landlord income participation.

*Please Complete Other Side*

### EXPENSES

Enter the annual expense prior to tenant reimbursement for the items listed. Round to the nearest dollar. If you list Other Expenses, describe the expense in the space provided. Use estimates if actual data is not available. Prorate expenses that do not occur annually.

*DO NOT include depreciation allowance, mortgage payments or real estate taxes as expenses.*

		2000	1999	1998
(1) MANAGEMENT	Wages, Salaries & Benefits			
	Insurance			
	Accounting & Legal			
	Marketing (advertising, commissions, etc.)			
	Office / Telephone			
	Other (Specify)			
	Other (Specify)			
(2) UTILITIES	Gas & Electric			
	Sewer / Water / Garbage			
	Other (Specify)			
(3) SUPPLIES	Office			
	Janitorial / Custodial			
	Other (Specify)			
(4) MAINTENANCE & REPAIRS	General Repairs			
	Decorating			
	Grounds / Snow Removal			
	Other (Specify)			
	Other (Specify)			
<small>DO NOT include expenses listed below under (6) Annual Reserves for Replacement</small>				
(5) OTHER EXPENSES	Specify			
	Specify			
	Specify			
<b>Total Expenses (1) thru (5)</b>				
(6) ANNUAL RESERVES FOR REPLACEMENT	Mechanicals & Roof			
	Decorating			
	Other (Specify)			
	Other (Specify)			
<small>DO NOT include items listed in (4) above</small>				
<b>Total Expenses (1) thru (6)</b>				

Are tenants required to reimburse real estate taxes? Yes \_\_\_ No \_\_\_

### REMARKS

Name (Print)

Phone

Signature

Date





**CONFIDENTIAL  
INCOME / EXPENSE QUESTIONNAIRE  
FOR HOTELS / MOTELS (4)**

Office of the City Assessor  
1115 South Main Street  
West Bend, WI 53095  
Phone 262-335-5125  
Fax 262-306-3102

**INFORMATION PROVIDED IS CONFIDENTIAL AND NOT AVAILABLE FOR PUBLIC INSPECTION**

Parcel Number:

Property Address:

GENERAL INFORMATION

	2016	2015	2014
<b>Number of Rooms</b>			
<b>Average Daily Rate</b>			
<b>Occupancy</b>			

INCOME & EXPENSE

*A copy of your internal operating statements may be attached in lieu of completing the schedule below if they provide all of the information requested. DO NOT list real estate taxes as an expense..*

		2016	2015	2014
<b>INCOME</b>	Rooms			
	Food & Beverage			
	Telephone			
	Rentals			
	Other			
	<b>Total Income</b>			
<b>DEPARTMENTAL EXPENSES</b>	Rooms			
	Food & Beverage			
	Telephone			
	Rentals			
	Other			
	<b>Total Departmental Expenses</b>			
<b>UNDISTRIBUTED EXPENSES</b>	Administrative & General			
	Management Fee			
	Marketing			
	Franchise Fee			
	Property Operation & Maintenance			
	Energy			
	Insurance			
	Other			
<b>Total Undistributed Expenses</b>				
<b>RESERVES</b>	Reserves for Replacement			
<b>Total Expenses</b>				
<b>Net Operating Income</b>				

*Please Complete Other Side*

**RESERVES FOR REPLACEMENT**

If you listed reserves for replacement as an expense on the previous page, please describe your method of calculation.

**LEASE SCHEDULE**

If the hotel or any parts of the hotel are leased, please provide the information requested below. To assist you and to insure uniformity in the information received, please observe the following instructions:

- Column 1 List tenant name
  - Column 2 List the tenant's predominant use—apartment, office, retail, storage, etc.
  - Column 3 Gross leased area in square feet
  - Column 4 Annual actual rent
  - Column 5 Annual rent you would ask if unit was vacant
  - Column 6 Expenses reimbursed by tenant excluding real estate taxes
- Use additional sheets if necessary. A copy of your current rent schedule may be attached in lieu of completing the schedule below if it provides all of the information required in Columns 1 through 6.*

Tenant (1)	Tenant Use (2)	Leased Area (3)	Rent		Expense Reimbursement (6)
			Actual (4)	Market (5)	
<b>Rent Totals</b>					

**PERSONAL PROPERTY**

If you have leased equipment, machinery, appliances, etc. on the premises, please list Lessor(s) name, address and phone:

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**REMARKS**

Name (Print)

Phone

Signature

Date



**CONFIDENTIAL**  
**INCOME / EXPENSE QUESTIONNAIRE**  
**FOR MIXED USE COMMERCIAL PROPERTIES (2)**

Office of the City Assessor  
 1115 South Main Street  
 West Bend, WI 53095  
 Phone 262-335-5125  
 Fax 262-306-3102

**INFORMATION PROVIDED IS CONFIDENTIAL AND NOT AVAILABLE FOR PUBLIC INSPECTION**

Parcel Number:

Property Address:

**LEASE SCHEDULE**

To assist you and to insure uniformity in the information received, please observe the following instructions:

- |          |  |          |  |
|----------|--|----------|--|
| Column 1 | List tenant name   | Column 4 | Annual actual rent   |
| Column 2 | List the tenant's predominant use—<br>apartment, office, retail, storage, etc. | Column 5 | Annual rent you would ask if unit was vacant                     |
| Column 3 | Gross leased area in square feet   | Column 6 | Expenses reimbursed by tenant <u>excluding real estate taxes</u> |

*Use additional sheets if necessary. A copy of your current rent schedule may be attached in lieu of completing the schedule below if it provides all of the information required in Columns 1 through 6.*

Tenant (1)	Tenant Use (2)	Leased Area (3)	Rent		Expense Reimbursement (6)
			Actual (4)	Market (5)	
<b>Rent Totals</b>					

**OTHER INCOME**

Please describe and list any additional income—sales percentage rents, parking, vending, etc.

Specify	
Specify	
Specify	
Specify	

**INCOME PARTICIPATION**

Describe sales percentage rent and/or any other provisions for landlord income participation.

*Please Complete Other Side*

### EXPENSES

Enter the annual expense prior to tenant reimbursement for the items listed. Round to the nearest dollar. If you list Other Expenses, describe the expense in the space provided. Use estimates if actual data is not available. Prorate expenses that do not occur annually.

*DO NOT include depreciation allowance, mortgage payments or real estate taxes as expenses.*

(1) MANAGEMENT	Wages, Salaries & Benefits				
	Insurance				
	Accounting & Legal				
	Marketing (advertising, commissions, etc.)				
	Office / Telephone				
	Other (Specify)				
	Other (Specify)		Total (1)		
(2) UTILITIES	Gas & Electric - Common Area				
	Gas & Electric - Leased Areas				
	Sewer / Water / Garbage				
	Other (Specify)				
			Total (2)		
(3) SUPPLIES	Office				
	Janitorial / Custodial				
	Other (Specify)				
			Total (3)		
(4) MAINTENANCE & REPAIRS <i>DO NOT include expenses listed below under (6) Annual Reserves for Replacement</i>	General Repairs				
	Decorating				
	Elevator				
	Grounds / Snow Removal				
	Other (Specify)				
	Other (Specify)				
			Total (4)		
(5) OTHER EXPENSES	Specify				
	Specify				
	Specify				
			Total (5)		
<b>Total Expenses (1) through (5)</b>					
(6) ANNUAL RESERVES FOR REPLACEMENT <i>DO NOT include items in (4) above</i>	Mechanicals & Roof				
	Decorating				
	Other (Specify)				
	Other (Specify)				
	Other (Specify)				
			Total (6)		
<b>Total Expenses (1) through (6)</b>					

Are tenants required to reimburse real estate taxes? Yes \_\_\_ No \_\_\_

### REMARKS

Name (Print)

Phone

Signature

Date



# DAVID CRAIG

STATE SENATOR

Senate Committee on Economic Development, Commerce and Local Government  
Public Hearing, May 3, 2017  
Senate Bill 158  
Senator David Craig, 28<sup>th</sup> Senate District

Dear Chairman Feyen and Committee Members,

Thank you for taking testimony on Senate Bill 158 regarding a property owner's right to refuse entry into his or her home for assessment purposes and conditions for appearing before the board of review.

Many people, for a variety of reasons, do not wish to allow a local property assessor to enter their home for purposes of a real estate property assessment. However, under current state law, any property owner who refuses such a request completely forfeits all rights to appeal the property tax assessment imposed by the assessor. Adding insult to injury, property owners who refuse entry into their home for assessment purposes further can see their property assessment rise significantly, leaving them with no method of or right to appeal.

Current law allows homeowners to deny property assessors entry into the interior of a residence. However, there is a co-existing statute that forbids that property owner from contesting the assessed value of the real property to the board of review when property owners exercise their right to refuse. To address this problem, we introduced legislation to affirm the right of property owners to refuse entry by a property assessor into their home and expressly provide for the right to appeal to the board of review. This legislation serves to protect a person's 4<sup>th</sup> and 14<sup>th</sup> Amendment rights.

Specifically, SB 158 protects a property owner's property interests and constitutional rights by:

- (1) Affirming the right of property owners to refuse entry into their home;
- (2) Expressly providing for the right to appeal to the board of review even if entry by the assessor has been refused.
- (3) Prohibiting an assessor from increasing a property's valuation based solely on the property owner's refusal to allow entry; and by,
- (4) Requiring property assessor to provide a notice of "Property Owner Rights" to the property owner when requesting to view the interior of a residence informing the owner of their rights.

This is timely legislation as the issue is currently pending before the Wisconsin Supreme Court in the case of *Milewski v. Town of Dover*. In *Milewski*, the existing statute (Wis. Stat. § 70.47(7)(aa)) prohibiting a property owner from appealing to the Board of Review is being challenged on constitutional grounds. It is noteworthy to mention that the Wisconsin Department of Justice (DOJ) submitted an Amicus Curiae brief in the case. In its brief, DOJ argues that the statutory prohibition against appeal was "implicitly repealed" by the State Legislature when the Legislature subsequently adopted Wis. Stat. § 70.05(4m) in 2009 which expressly states that a property owner may deny entry to an assessor. This bill will address the problem and clearly define the law so future property owners will know their rights and be able to exercise them without penalty.

Thank you for allowing me to testify on this important update of our statutes. I am happy to take any questions from Committee members.

**To the Wisconsin Senate Committee on Economic Development, Commerce and Local Government**

**Wisconsin Constitution Article 1, Section 11.** *The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.*

**U.S. Constitution, Amendment XIV, Section 1.** *All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.*

**Wis Stat 70.47(7)aa** *No person shall be allowed to appear before the board of review, to testify to the board by telephone or to contest the amount of any assessment of real or personal property if the person has refused a reasonable written request by certified mail of the assessor to view such property.*

These three statements made up the basis for our lawsuit against the Town of Dover, Board of Review, and Gardiner Appraisal Service for violations of our fourth amendment, equal protection, and due process rights. Entering the private homes of citizens for purposes of taxation is not reasonable. Banning them from contesting an unreasonable property assessment because they exercised their fourth amendment rights, denies them due process and equal protection.

Our story began in 2004 when Gardiner Appraisal Service, assessor for the Town of Dover, conducted a town-wide revaluation. We initially denied them access into our home only to find that because of that they increased our valuation by 64%. When I attended the open book session, I was told that they would not speak to me if I did not allow an assessor into my home. We gave in to the strong arm tactics of Gardiner Appraisals and allowed one of their assessors into our home. After that inspection, the assessor was surprised to find out that we had not finished our basement, despite repeated claims on our part of such. Our valuation was arbitrarily decreased \$10,000.00. Feeling that our valuation was still too high, I presented three comparable properties before our Board of Review where they considered the assessor's one comparable property (not at all comparable) and stated that they would treat this property the same as the others in my subdivision – denied. After that miscarriage of justice, we decided to never concede our privacy rights and allow an assessor into our home.

I am a member of the Town of Dover Plan Commission. In 2012 a representative of Gardiner Appraisals attended one of our meetings and informed us that a town-wide revaluation would once again be conducted. I questioned whether or not interior home inspections would be conducted and was told that they were required by state law. After

researching the state requirements, I found that that was not the case and brought it to the attention of the Town Board. I solicited a bid from another independent assessor for a revaluation with and without interior inspections. The cost was twice as expensive with interior inspections of each home. The Town Board chose not to alter their contract with Gardiner, fearing a lawsuit from them.

When an assessor arrived at our home, my wife informed him that she would not allow him inside our private residence, but that he was welcome to view the entirety of our yard and the home's exterior. She also offered to answer any questions that he had regarding our home. He stated to her that he was putting us down as a refusal and immediately left the property without asking any questions or viewing the yard or exterior of our home. When Gardiner sent us a certified letter requesting to view the interior of our residence, we refused that request and once again offered to answer any questions regarding the home. They did not ask a single question.

Of the 43 homes in our subdivision, 39 saw reductions in their valuations of an average of 5.81%. Four homes saw an increase of an average of 10.01%. Those four did not allow the assessor inside their homes. Two of the homes subsequently allowed the assessors in and each had their valuations lowered. The two remaining homes with increased valuations were ours, and one that was in foreclosure with no one available to let an assessor in. To us this is a clear case of punitive valuation with no chance to challenge that valuation.

I attempted to challenge our valuation at the Board of Review but was denied even getting a hearing before them. They stated that because we refused a reasonable request to view our property, I was barred from appearing. They did not even entertain my argument that we did not refuse a request to view our property since we offered to open our fence gate and allow the assessor full access to our yard. We simply refused them access into our private residence.

Upon the advice of another independent assessor, we then filed a lawsuit against the Town of Dover, Board of Review, and Gardiner Appraisal Service for excessive taxation. That case ultimately was heard by the Wisconsin Supreme Court and we are eagerly awaiting their decision.

We urge the Committee to accept the legislation put forth by Senator David Craig in SB158 and forward it on to the full senate for a vote. This legislation corrects the constitutional harms in our current law and allows for Wisconsinites to maintain their freedom of privacy while retaining their rights of due process and equal protection.

Thank you for your consideration,

Vincent D. Milewski & Morganne L. MacDonald  
1232 Linden Lane  
Kansasville, WI 53139



PHILLIPS, MILEWSKI & ASSOCIATES, INC.

ARCHITECTURE • ENGINEERING • PLANNING

formerly BIRCH • GRISA • PHILLIPS INC.

September 20, 2004

Town of Dover  
4110 S. Beaumont Ave.  
Kansasville, WI 53139

**RE: Assessor Review Day**

Dear Town of Dover Officials:

I am writing this letter to express my extreme displeasure with the treatment I received on September 17, 2004 when I attended the Town of Dover Assessment Inspection Review.

This story begins with my receiving my 2004 Assessment Notice and finding that my property value had been increased 164%. If equalized values are used for the 2003 Assessment then the increase is effectively 128%. I contacted Gardiner Appraisal Service to discuss this increase on September 15, 2004 and was told the following:

1. They are not allowed to apply even percentage increases on all properties, but must appraise each property independently.
2. They could not access my personal file since they were preparing for the Town of Dover Review Day.
3. It was suggested that I attend the Review Day and speak to an assessor regarding my valuation.

I arrived at the Town Hall at approximately 8:45 and was fourth on the list of citizens in attendance that wished to speak to an assessor.

Ms. Linda Gardiner retrieved my file, and when she noticed that I did not allow an assessor inside my residence stated that "we have nothing more to discuss". I attended that Review Day to discuss the basis for our increase and was told by her that if the assessors are not let in they "apply a percentage to last year's valuation". I asked her why 28% and she smugly stated "that's just what it is".

Since I was still very much interested in learning what their basis for valuation was, and since her response was in direct contrast to that which I received over the phone from her office, I approached her while she still had my file in her hand and asked if the file was a public record. She stated that it was, and I immediately requested to view the contents. She refused to allow me to view the file and stated that the only way I could see it's contents was to file a "Freedom of Information" request with the Town Clerk. Though I didn't know it at the time, this act on her part was in clear violation of the Town of Dover and State of Wisconsin rule for access to documents.

I then proceeded to hand write a request that the Town Clerk subsequently submitted to Ms. Gardiner for review. Ms. Gardiner stated that my letter was acceptable and that a copy of the file would be available by the end of the day. At that point she was no further than thirty feet from the Town's copier

and could easily have accommodated my request in a more expeditious manner.

Freedom of privacy is a fundamental right in this country and should not be abridged by public servants or their consultants. Freedom of access to public records likewise should not be abused. I believe that because my family chose to exercise it's right of privacy by not letting Gardiner Appraisals into our home we are now being penalized by an unjustly high increase in our assessment and have been subjected to improper as well as illegal treatment in a public forum. This is not right and should not be condoned by the Town of Dover.

Because of the actions of Gardiner Appraisal Service I lost out on many hours of work and suffered emotional distress. I received conflicting information regarding the valuation process, and to this date do not know what their actual basis was for my outrageous property assessment increase.

The file copies that I received do not give any indication that they used resources which should have been available to them to properly assess our property including:

1. Former assessments
2. Building permit applications
3. Original building plans
4. Similar property analysis

One of the three assessors in attendance at the Review Day told me that when they are not allowed inside a residence they simply "estimate or guess at the value". I do not believe that this is an acceptable or appropriate method of valuation.

The file has notations that state that the assessor visited our home, found the door open, and that no one answered. With our front door open he/she would have had an open view of the interior of our house and should not have needed to enter the residence. Other notations point to the fact that at some time the assessor entered our property and either measured or estimated the dimensions of our home and sketched a footprint of it including our rear deck which is only accessible upon entering our rear yard. Further proof of their viewing our property is that it is noted in the file that the shed that I am currently constructing is 95% completed. These observations along with proper analysis of similar properties should have been sufficient for Gardiner Appraisal Services to properly assess our property.

Because of the treatment I received by the assessors and their lack of professionalism in the assessment process I will be attending the Town of Dover Board of Review meeting to dispute what I believe to be an unjust and unsubstantiated assessment of my property. In addition, I am currently contemplating a lawsuit against Gardiner Appraisal Services.

Sincerely,

Vincent D. Milewski  
1232 Linden Lane  
Kansasville, WI 53139  
(414) 217-1061

September 24, 2004

Town of Dover  
4110 S. Beaumont Ave.  
Kansasville, WI 53139

**RE: Freedom of Information Request**

Since, at the time of the drafting of this request, we have not received ANY written responses from Gardiner Appraisal Services relating to our 2004 assessment, we are requesting under the Freedom of Information Act copies of all documents pertaining to this assessment.

We appeared at every open forum scheduled by the Town of Dover requesting information regarding how the re-valuation of our property was made. We were systematically and uniformly denied the opportunity to speak with an appraiser. We were told the only way we could speak with an appraiser or get an explanation was to allow an appraiser into our home. We did that on 9/21/04 and have still received no information, written or verbal, in response to our numerous requests for same.

This lack of response in a timely manner by Gardiner Appraisal Services has forced us to request an appearance before the Town of Dover Board of Review without even knowing whether or not Gardiner has adjusted their initial assessment values for our property based upon their inspection of 9/21/04. This is not fair to us as citizens or professional on their part.

Sincerely,

Vincent D. Milewski & Morganne L. MacDonald  
1232 Linden Lane  
Kansasville, WI 53139  
(414) 217-1061

PHILLIPS, MILEWSKI & ASSOCIATES, INC.

ARCHITECTURE • ENGINEERING • PLANNING

formerly BIRCH • GRISA • PHILLIPS INC.

September 28, 2004

Mr. Peter Ludwig  
Town of Dover Attorney  
4110 S. Beaumont Ave.  
Kansasville, WI 53139

**RE: Board of Review Decision**

Dear Attorney Ludwig:

This afternoon my wife, Morganne L. MacDonald, and I appeared before the Town of Dover Board of Review to contest the assessment of our home. The Board of Review used as a "comparable" property in their decision the home located at 24129 Lotus Drive, Kansasville, Wisconsin. Because of the way that they based their decision on that "comparable" property, they arrived at their value of our home in error; errors in fact and application of their chosen comparable worth.

Consequently, we are requesting that this matter be revisited since the review proceedings are still open, and we did not have the opportunity to point out the Board's errors. The board closed testimony prior to it's deliberation and prior to giving any indication that the 24129 Lotus Drive property would be the basis for their decision. We do not object at all to the use of that property as a "comparable" as long as all of the non-subjective factors are taken into account when applying it's assessed value against our property.

We presented two "comparable" properties in our testimony; 1252 Laurel Lane (which happens to be owned by the Town of Dover Clerk) and 24009 Lotus Drive. The Town's assessors presented 24009 Lotus Drive and 24129 Lotus Drive as their "comparables". Of the three presented we still believe that 1252 Laurel Lane was the most similar to ours in features, quality, location, and especially living area. The Town at the direction of Chairman Lembcke chose to base their decision solely on the 24129 Lotus Drive total property value without consideration of differences in lot valuation or livable area. This decision was made with great hesitation and reluctance on the part of the other two members.

The error in facts stems from the the Board choosing to apply a "same as" standard rather than a "comparable" standard. If they wanted to us a "same as" standard they should have used the property owned by the Town Clerk, since it mirrors ours in square footage. 24129 Lotus Drive (the "comparable" they used) is a two-story residence that the assessor listed as having 2,432 SF and was of Class B- construction. Our home has 2,020 SF and was noted by the assessor to be of Class B construction. The assessors testified that the difference between valuations of B and B- homes is 10%. The classification of a home is a subjective standard based upon guidelines set forth by the State relating to the quality of construction and fixturing of a home. We disagree with the subjective listing of our home as a B and 24129 Lotus Drive as a B- since, according to it's MLS listing sheet, that property has solid oak 6-panel doors throughout whereas ours has oak veneer hollow core doors throughout. Our light fixtures were \$6.00 each or less from Menards and our plumbing fixtures are medium grade from American Standard and Aker. I can't believe that the fixtures in 24129 Lotus

Drive can be of significantly lower quality than ours. For purposes of discussion though let's assume that the assessor's classifications are correct.

Strictly applying the Board's chosen "comparable" to our home yields the following result:

At an assessed value of \$220,000 for the improvements at 24129 Lotus Drive, the square footage cost of that structure is \$90.46/SF. Applying a 10% increase for "B" status results in a valuation of \$99.51/SF to be applied to our home. At that rate our 2,020 SF home should be worth \$201,002; not the \$227,800 or \$112.77/SF that the assessor has it valued at. Adding in the uncontested \$46,100 value for our land and \$5,000 for our shed results in a total valuation of \$252,102. By using their own methodology and "comparable" the result is very close to our requested valuation of \$253,100 which was based upon our own "comparable" and is significantly lower than the \$273,900 assessor's valuation that was upheld by the Board of Review. The Board of Review incorrectly assumed that the two structures were the same without accounting for the fact that 24129 Lotus Drive has 412 SF more living space (658 SF according to the MLS listing) and has a land value that is \$5,700 higher.

In short, we approve of the methodology that the Board of Review used in determining the value of our property, however, do not believe that they applied that methodology in a correct or uniform manner. We ask that you discuss this issue with the Board before the close of the Board of Review meeting and urge them to re-open discussions with us regarding our assessment so that we may have the right to properly rebut the details of the comparison between our property and 24129 Lotus Drive. The Board of Review meeting was the first opportunity that we were given to hear any bases used by the assessors for their valuation of our property and question their methodology. Since they presented and the Board subsequently used a "comparable" that we did not have full facts on at the time of the meeting, we request the opportunity to properly discuss the factual basis for comparison.

Sincerely,

Vincent D. Milewski  
1232 Linden Lane  
Kansasville, WI 53139  
(414) 217-1061

cc: Thomas Lembcke  
John Hauper  
Donna Olson  
Brett Ekes

Thomas Lembcke  
Town of Dover  
Board of Review

John Hauper  
Town of Dover  
Board of Review

Donna Olson  
Town of Dover  
Board of Review

Atty. Brett Ekes  
Ekes Law Office

Dean Larsen  
Town of Dover  
Board of Review

To the Dover Town Board,

Last month I learned that the Town of Dover was planning a revaluation of all properties within the town for 2013 as required by the Wisconsin Department of Revenue. Just prior to the Joint Town Board and Plan Commission meeting, a representative from Gardiner Appraisal Services spoke regarding the proposed revaluation. At that time, I questioned whether or not interior building inspections would be conducted as part of the revaluation process. I was informed that they would, and that interior inspections were required by state statutes. When I questioned further why other local municipalities do not undertake revaluations to this level, I was told by the Gardiner representative that those other municipalities were not complying with the law.

I have spoken with other assessors, and have learned that interior inspections are not widely performed as part of the revaluation process, and that the cost of doing such is considerably more expensive than the more typical exterior only inspections. Furthermore, state statutes do not require interior inspections for all revaluations. I believe Gardiner Appraisals has misstated Wisconsin law, and the Town of Dover has accepted a contract for greater services than should be necessary to satisfy the Department of Revenue.

I bring this to the attention of the Town Board for two reasons:

1. I firmly believe that, wherever possible, the Town should seek to minimize expenses that are passed along to the residents. In this case, the Town could potentially save half of the contract amount for this revaluation, \$25,000-\$35,000, without sacrificing any quality of assessment. This is a substantial sum for a town of our size, and is money that could be better spent on more critical needs. I believe that Gardiner Appraisals is simply wrong and the Town of Dover residents should not have to pay two times what is necessary to ensure an accurate revaluation.
2. I also firmly believe that interior inspections are an unnecessary invasion of privacy. State statutes bar inspectors from opening any doors and entering a residence. In order to contest an assessment, statutes require that the homeowner must comply with a reasonable request to view their property. You are not, however, required to grant them access into your home. Properties can be viewed from the exterior. Locally, the Town of Yorkville, Village of Union Grove, City of Burlington, and other municipalities do not perform interior inspections as part of their assessment services. One of the assessors I spoke with said that he thought that full interior inspections should only be necessary if the property records on file were poorly kept. The Town of Dover records are very detailed.

I planned on making this presentation personally during the 'public comments' part of the agenda, but must attend a business meeting in Milwaukee this evening. I ask that the Board consult with our Town Attorney and seriously consider either modifying the contract with Gardiner to lower the fees and remove interior inspections, or break the contract and put the revaluation services out for public bidding with a scope to include exterior inspections only.

Thank you for your consideration,

Vince Milewski  
Town of Dover Plan Commission Member

## 2013 Lorimar Estates Revaluation

Address	2012 Full Value	2013 Valuation	Difference	% Change
1233 Lavender Dr	\$301,389	\$268,900	(\$32,489)	(10.78)
1243 Lavender Dr	\$278,572	\$268,200	(\$10,372)	(3.72)
1253 Lavender Dr	\$215,800	\$207,700	(\$8,100)	(3.75)
24009 Lotus Dr	\$311,733	\$286,000	(\$25,733)	(8.25)
24109 Lotus Dr	\$294,493	\$276,800	(\$17,693)	(6.01)
24119 Lotus Dr	\$242,470	\$223,900	(\$18,570)	(7.66)
24129 Lotus Dr	\$302,302	\$285,400	(\$16,902)	(5.59)
24209 Lotus Dr	\$257,175	\$246,000	(\$11,175)	(4.35)
24219 Lotus Dr	\$236,183	\$257,700	\$21,517	9.11
24229 Lotus Dr	\$199,067	\$197,300	(\$1,767)	(0.89)
24303 Lotus Dr	\$278,674	\$263,800	(\$14,874)	(5.34)
1258 Larkspur Dr	\$202,414	\$193,500	(\$8,914)	(4.40)
1248 Larkspur Dr	\$245,513	\$270,300	\$24,787	10.10
1236 Larkspur Dr	\$289,829	\$272,600	(\$17,229)	(5.94)
1224 Larkspur Dr	\$226,042	\$217,900	(\$8,142)	(3.60)
1212 Larkspur Dr	\$281,006	\$267,100	(\$13,906)	(4.95)
1213 Larkspur Dr	\$224,622	\$207,100	(\$17,522)	(7.80)
1223 Larkspur Dr	\$262,245	\$248,400	(\$13,845)	(5.28)
1233 Larkspur Dr	\$214,380	\$199,500	(\$14,880)	(6.94)
1243 Larkspur Dr	\$238,921	\$226,900	(\$12,021)	(5.03)
24230 Lotus Dr	\$270,865	\$221,000	(\$49,865)	(18.41)
1252 Linden Ln	\$319,136	\$308,400	(\$10,736)	(3.36)
1232 Linden Ln	\$277,761	\$307,100	\$29,339	10.56
1222 Linden Ln	\$311,226	\$285,500	(\$25,726)	(8.27)
1212 Linden Ln	\$308,387	\$289,300	(\$19,087)	(6.19)
1213 Linden Ln	\$266,809	\$249,100	(\$17,709)	(6.64)
Vacant land	\$39,144	\$38,600	(\$544)	(1.39)
1233 Linden Ln	\$261,333	\$247,200	(\$14,133)	(5.41)
1243 Linden Ln	\$256,769	\$245,000	(\$11,769)	(4.58)
1253 Linden Ln	\$303,113	\$282,900	(\$20,213)	(6.67)
1252 Laurel Ln	\$243,383	\$232,600	(\$10,783)	(4.43)
1242 Laurel Ln	\$249,975	\$228,900	(\$21,075)	(8.43)
1232 Laurel Ln	\$261,434	\$240,900	(\$20,534)	(7.85)
1222 Laurel Ln	\$238,110	\$230,000	(\$8,110)	(3.41)
1212 Laurel Ln	\$244,701	\$232,200	(\$12,501)	(5.11)
1213 Laurel Ln	\$275,428	\$253,100	(\$22,328)	(8.11)
1223 Laurel Ln	\$252,611	\$239,300	(\$13,311)	(5.27)
1233 Laurel Ln	\$241,558	\$218,400	(\$23,158)	(9.59)
1243 Laurel Ln	\$232,431	\$222,500	(\$9,931)	(4.27)
24020 Lotus Dr	\$231,315	\$221,300	(\$10,015)	(4.33)
1252 Lavender Dr	\$238,313	\$230,600	(\$7,713)	(3.24)
1232 Lavender Dr	\$281,107	\$310,000	\$28,893	10.28
Vacant land	\$5,679	\$5,600	(\$79)	(1.39)
<b>Average increase of (4) increased properties = +10.01%</b>				
<b>Average decrease of (39) decreased properties = -5.81%</b>				
<b>Value of 1232 Linden Lane at decrease of -5.81% = \$261,623</b>				





**MINUTES OFFICIAL  
OF THE POSTPONED BOARD OF REVIEW  
MONDAY, NOVEMBER 25, 2013 – 4:00 P.M.  
DOVER TOWN HALL  
4110 SOUTH BEAUMONT AVENUE  
KANSASVILLE, WI 53139, RACINE COUNTY**

1. **Call to Order:** Chairman Thomas Lembcke called the public hearing to order at 4:01 p.m.
2. **Roll Call:** Chairman Thomas Lembcke, 1<sup>st</sup> Supervisor Mike Shenkenberg, Judy Amundsen, Jean Schaal, Jamie Poeschel, Attorney Rich Scholze and Clerk/Treasurer Marilyn Rudrud.
3. Marilyn R. read the Public Hearing into the record.
4. Judy A. nominated Thomas L. as Chairman. Mike S. seconded. Motion carried. Judy A. nominated Mike S. as Vice Chairman. Jean S. seconded. Motion carried. Marilyn R. swore in Jamie Poeschel from Gardiner Appraisal and stated, "This is not a hearing." Vincent Milewski of 1232 Linden Lane stated he allowed the assessors access on his property, but would not allow them to enter his home. Attorney Scholze stated that his choice of not allowing the assessors access to his home forfeits his right to appear before the Board of Review. Discussion followed. Judy A. motion to not allow Vincent M. to appear before the Board of Review. Jean S. seconded. Motion carried. Thomas L. stated, "This is a hearing." Patrick Poeschel of 27500 Rowntree Road stated he disagrees with the assessment of his home. Jamie P. presented comparables used to determine the assessment. Patrick P. stated he also disagrees with the assessment of his agricultural land. Jamie P. stated he could change the classification from ag-land to tillable land and recommend an assessment of \$11,300.00. Judy A. motion to reduce the land value to \$11,300.00. Jean S. seconded. Motion carried. Judy A. motion to leave the assessment of the house as assessed at \$413,400.00. Mike S. seconded. Motion carried. Joseph Schweitzer stated he disagrees with the assessment of his house at 3420 Polk Street in Kansasville. Jamie P. stated the assessment has been reduced to \$56,600.00 since viewing the property during the Open Book. Discussion followed. Jean S. motion to leave the assessment as assessed at \$56,600.00. Mike S. seconded. Motion carried. Attorney for Thomas Detienne of 1507 N. Britton Road stated that Thomas D. disagrees with the assessment of his property. Jamie P. stated the amended assessment of the property is \$178,200.00 since viewing it during the Open Book. Discussion followed. Jean S. motion to leave the assessment as assessed at \$178,200.00. Judy A. seconded. Motion carried. Mary Bellocchio of 2425 Lakeshore Drive is questioning why the value of her home increased by \$1,800.00 since she hasn't made any improvements to it. Jamie P. stated that the last assessment was in 2004 and this increase reflects the last eight years. Judy A. motion to leave the assessment as assessed at \$192,100.00. Mike S. seconded. Motion carried. Sherry Baumgart of 24237 Fairway Drive disagrees with the assessment of her home. Jamie P. stated comparables of lake front properties have to be of properties within the municipality of the assessments. Jamie P. presented comparables used to determine the assessment. Discussion followed. Jean S. motion to leave the assessment as assessed at \$516,000.00. Mike S. seconded. Judy A. abstained. Motion carried. Gary Walvoord stated he called the

Wisconsin Association of Assessing Officers

SB 158 allows:

- 1) A person who has refused a reasonable written request to view the person's property to appear before the board of review to contest the property's assessed value and, ultimately, to file a 70.47 claim with the taxation district for an excessive assessment.**

*It is nearly impossible to accurately determine the fair market value of a property without the benefit of actually seeing those components of the property that contribute value. This proposal now asks municipalities to defend their value at a quasi-judicial hearing without the benefit of seeing the property's interior. This potentially creates an additional caseload for local Board of Review's and puts the Board of Review in the awkward position of trying to do the work currently done by the assessor during record maintenance season or during Open Book.*

*Secondly, if the board finds for the municipality and the property owner appeals to circuit court, only the property owner's expert will have had the benefit of actually viewing the physical characteristics of the property. The municipality's expert will have been denied access and any information necessary to base a determination of fair market value. The court will require accommodations be made to provide the municipality's expert the opportunity to access the property for the purpose of collecting information on which to base a fair market value.*

- 2) The bill also provides that the assessor may not increase the value of a person's property based on the person's refusal to allow entry to the assessor.**

*Current statutes already make it unlawful for an assessor to increase the value of a property solely because they were refused entry to a property. Doing so results in suspension or revocation of assessor certification and a fine of up to \$250.*

- 3) In addition, the bill requires an assessor to provide written notice to each owner of residential property regarding the property owner's right to refuse entry to his or her residence for property tax assessment purposes and secondly, requires written permission by each owner allowing access to a property.**

*Advising a property owner that their "refusal to allow an interior inspection.....will not result in an increased property tax assessment" will only foster confusion of the process. The assessor has a legal obligation to increase the assessed value if there is information that leads to that conclusion even if access is refused.*

*Receiving written permission to enter a property is unlikely. It is more likely that appraisal staff will be invited to view few, if any, new or partially constructed properties*

*in the future. This will begin an erosion of the appraisal process. If appraisers don't have an accurate description of what sells for a specific price they cannot correlate the price paid with any of the descriptive items contributing value. The ability to use market valuation models diminishes and the ability to use comparable sales diminishes for the same reason – there is no certainty of quantifying or qualifying items of comparison.*

- 4) Finally, the bill rescinds 70.47 (7) (af) and allows a person who has not complied with a request to provide income information to the assessor to appear before the local Board of Review and file a 74.37 claim for excessive assessment.**

*70.47 (7) (af) was created by the legislature so municipal appraisal staff could collect current, market rent and market expense information for appraisers to use when determining the fair market value of leased and rented property when using the income approach to valuation. Requests for Income and Expense information are largely made during years of municipal revaluations. Rescinding 70.47(7)(af) will greatly reduce the collection of information used for analysis and valuation of leased property with a high probability of having no information for some types of property uses. Having this information before values are determined minimizes issues and necessary changes during the time after assessment notices are mailed and when hearings take place.*



702 North High Point Road, Suite 203 • Madison, WI 53717  
608-826-6226 • Fax 608-826-6236 • [www.aascw.org](http://www.aascw.org)

**TO: Senate Committee on Economic Development, Commerce and Local Government**

**FROM: Apartment Association of South Central Wisconsin**

**DATE: May 3, 2017**

**RE: Testimony in Support of SB 158**

The Apartment Association of South Central Wisconsin [AASCW] supports Senate Bill 158 that will strengthen and more clearly define property owners' rights during the process of property tax assessments.

From the multifamily perspective, refusing overreaching requests for unnecessary and proprietary information should not result in the inability of a property owner to challenge an assessment. Often times, the written request multifamily owners receive from municipalities for income information is confusing and not clear whether the request is voluntary or mandatory.

We applaud this bill for allowing property owners to object to their valuation at the Board of Review in cases when they elect not to share information about income and expenses requested by the assessor. Simply put, it's the property owner's choice to share such information; not the government's right to coerce it.

Another positive provision of this bill is the plain language notice apprising property owners that they have the right to refuse entry. With this clear disclosure, it will ensure that property owners are aware they do have a choice in matter. Further, the bill provides that an assessor may not increase the valuation based on the refusal to allow entry. Again, simply by exercising a constitutional right should not result in the property owner being penalized.

The multifamily housing industry has been especially at risk to targeted enforcement, warrantless searches, and overreaching municipal requests for private information. Therefore, we welcome and firmly support this legislation that will enhance private property owner's rights throughout the State of Wisconsin.

We respectfully request the Committee Support Senate Bill 158.

Town of Badger, Washington County  
**2016 Assessment Quality**

The following information shows a measure of the quality of assessments produced under conditions not conveyed in this document. It is imperative that the reader understands that the results shown here are not based solely on the assessor's efforts but also reflect:

1. Little or no enforcement of assessment standards and assessment contracts
2. Bad case law
3. Inconsistencies contained in the Wisconsin Property Assessment Manual
4. Funding limitations
5. Trespass law
6. Political interference
7. Limitations in the computer software used to do mass appraisal

The purpose of these measures are not to determine fault but to help stakeholders make more informed decisions.

2016 Assessments		Sales (1/1/2013 to 12/27/2016)	
Completeness *1	98.7% ✓ (95 to 100%)	Completeness *4	99.3% ✓ (95 to 100%)
Accuracy *2	98.7% ✓ (95 to 100%)	Accuracy *4	88.9% ✗ (95 to 100%)
Credibility *3	59.8% ✗ (95 to 100%)	Credibility *4	48.9% ✗ (95 to 100%)
Overall score	<u>59.8%</u> ✗	Overall score	<u>48.9%</u> ✗
<b>How 2016 Assessments Compare with Sales (1/1/2013 to 12/27/2016)</b>			
Overall level of assessment	92.1%	⚠ (95% to 105%)	
Uniformity (coefficient of dispersion)	12.9%	⚠ (6 to 12%)	
Uniformity (price-related differential)	102.8%	⚠ (98% to 102%)	
Confidence rating:	83.3%	⚠ (90% to 100%)	

✓ = OK

⚠ = May need attention

✗ = Failure

\*1 Measured by the incomplete records report

\*2 Measured by the accuracy of property records and assessment roll audit reports

\*3 Measured by the assessment credibility report

\*4 Measured by the sales audit report

The **completeness of assessment data** measures how many properties have a complete set of electronic records based on the DOR's electronic records requirement. A measure of 90% means that 90% of all properties have all of the required data and that 10% of the properties are missing at least one item.

The **accuracy of assessment data** measures what percentage of each property's assessment data matches what the assessor intended. Assessors make small corrections to the property records as they discover errors and this measure quantifies how much each property's record would be correct if it were reviewed.

The **credibility of assessment data** measures how many properties have evidence to support the uniformity of their entire valuation. For example, a property whose value has been manually overridden is less credible than one whose value was determined using a valuation model because there is no evidence to prove that the manual value is uniform. Credibility is limited by accuracy and therefore will never be higher than accuracy.

The **quantity of sales data** measures whether there are sufficient sales in each strata to produce credible measures of uniformity and level of assessment. A measure of 80% means that 80% of all strata are represented by a minimum sample size of 5% (by value and by count).

The **accuracy of sales data** measures what percentage of each sale's property data matches what was included at time of sale. An assessor records the property included in a sale. The sales data is then audited to ensure there are no inconsistencies which if left uncorrected will result in a number less than 100%.

The **credibility of sales data** measures how many sales have evidence to support the accuracy of the assessment-to-sales ratio. If a property that is full inspected right after it sells will be more credible than a property that is inspected 9 months later or a year earlier. Credibility is limited by accuracy and therefore will never be higher than accuracy.



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ASSESSOR'S OFFICE

**Steven Miner**  
Assessment Commissioner

**Peter Bronek**  
Chief Assessor

**City of Milwaukee Testimony on SB158**  
**Committee on Economic Development, Commerce, and Local Government**  
**May 3, 2017**

Thank you for the opportunity to testify on Senate Bill 158. The City of Milwaukee is opposed to the bill because our valuation method is built on having accurate and timely data. Property inspections enable us to have data that is accurate as of the assessment date. This data is used each year to calculate accurate assessments and ensure that the tax burden is distributed fairly and equitably. The distribution is based on the actual value of the properties. The proposed bill will reduce fairness, shift the tax burden away from those who refuse entry, increases costs for municipalities and reduce the reliability of assessments. It will also significantly change the perception of accuracy and integrity of the work performed by Assessor's offices.

The City of Milwaukee opposes this bill for several reasons.

**1. The bill allows a person who has refused a reasonable written request to view the person's property to appear before the Board of Review (BOR) to contest the property's assessed value and, ultimately, to file a claim with the taxation district for an excessive assessment.**

The right to privacy and right to appeal is long standing. That aside, allowing the owner to go to the BOR without requiring interior inspections will result in many unnecessary BOR cases. If the assessor will have to guess as to the quality of materials and the amount of finish in a building. The owner would be able to present photos and information proving the guestimate is wrong. How will anyone know if the photos and information are for the actual property in question?

The BOR would end up doing work the assessor currently does at Open Book. Currently the owner can visit the assessor with the information during Open Book or, any time of the year, to establish a fair and equitable value. No one buys a house based upon what they see from the street and no value made from the street should have to be defended at a hearing.

**2. The bill also provides that the assessor may not increase the value of a person's property based on the person's refusal to allow entry to the assessor.**

Imagine this scenario, a property owner puts on an addition to their home or business. The owner refuses entry. The assessment cannot be changed. Or another scenario, values are increasing and all properties will increase except for those who refused entry. Both of these scenarios clearly point out this part of the law change would result in loss of fair and equitable assessments.

Room 507, City Hall, 200 East Wells Street, Milwaukee, Wisconsin 53202

[www.milwaukee.gov/assessor](http://www.milwaukee.gov/assessor)

Phone: (414) 286-3651

Member International Association of Assessing Officers and the National Tax Association





**3. The bill allows a person who has not complied with a request to provide income information to the assessor, to file a claim for an excessive assessment even though the person is prohibited from appearing before the board of review.**

If income is unknown, the income approach cannot be completed. This again goes against accuracy, fairness, and equity. The current mass appraisal practice is to use market rents. Using market rents keeps the assessments fair and equitable and values uniform. Why would someone be able to file an appeal when they are withholding information? The Board of Review will need the information in determining a value. If the owner refuses to give the information to the Board of Review, the Board will sustain the assessed value due to no information being provided to overturn the assessment. If the owner appeals further, the income information will be subpoenaed and will become public versus the confidentiality they would have, had they given the information to the assessor. The current requirement to mandate income information be given to the assessor is sensible and results in fair and equitable assessment and less appeals clogging up the courts.

**4. Impact on Real Estate Lending Institutions.**

Lenders review loan to value ratios to determine the type of appraisal required. Exterior only appraisals require an exterior viewing. In this case the appraiser relies 100% on assessment records for room counts, number of bathroom, condition of the property, and all of the other property attributes. Interior appraisals get the fee appraiser into the subject property but again not into any of the comparable properties they will use. The loss of assessment data will impact the accuracy of appraisals done by fee appraisers. Less accurate appraisals would have a negative impact on lender underwriting risk and loss.

**5. Inaccurate information to users of assessment data.**

The data collected by assessors is used for much more than the valuation of property. The information is used to determine where funds should be spent to improve declining neighborhoods. Studies are done to determine the quality and type of housing stock in areas of a jurisdiction. The public uses the data for many different reasons; one of which is to determine if the asking price on a property is reasonable. This bill will destroy the integrity of assessment data and could result in poor appropriation of scarce funds, plus misleading the public about property values at a time when they need it most.

For the reasons stated above, the City of Milwaukee respectfully requests the committee oppose SB 158. Thank you for the consideration of our concerns.

For more information please contact:

Steven F Schwoerer, Assessment Operations Director  
[sschwo@milwaukee.gov](mailto:sschwo@milwaukee.gov) or 414-286-3162

Brenda Wood, Intergovernmental Policy Manager  
[bwood@milwaukee.gov](mailto:bwood@milwaukee.gov) or 414-286-2371

COMMON COUNCIL  
CITY OF MILTON, WISCONSIN

RESOLUTION #2017-11

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**RESOLUTION OPPOSING SENATE BILL 158 RELATING TO PROPERTY OWNER'S  
REFUSAL ALLOWING MUNICIPAL ASSESSORS INTERIOR ACCESS TO PROPERTIES**

WHEREAS, Wisconsin statute 70.47 (7) (aa) states, "No person shall be allowed to appear before the board of review, to testify to the board by telephone or to contest the amount of any assessment of real or personal property if the person has refused a reasonable written request by certified mail of the assessor to view such property."; and

WHEREAS, 2017 Senate Bill 158 would repeal this provision and replace it with, "A property owner's refusal to allow the assessor to enter the owner's property shall not preclude the property owner from appearing before the board of review to object to the property's valuation, as provided under s. 70.47 (7), and the assessor may not increase the property's valuation based on the property owner's refusal to allow entry"; and

WHEREAS, existing Wisconsin State Statutes requires assessors to produce fair and equitable valuation. Accurate valuations can only be produced by conducting a thorough interior and exterior inspection of each property; and

WHEREAS, SB 158 would strip away an important discovery tool granted by the Statutes to insure accurate and equitable assessed values, and therefore equitable taxation; and

WHEREAS, SB 158 would likely cause more property owners denying entry of assessors into their properties, thereby causing an ever increasing amount of interior improvements to not be discovered, thereby causing more property value to be left off the assessment rolls causing mill (tax) rates to increase over time to make up for the loss of value not discovered; and

WHEREAS, SB 158 would cause Assessors to not live up to their oath of office; and

WHEREAS, it is the City of Milton's concern that if Senate Bill 158 is enacted, the City's tax collections might be disproportionately allocated, resulting in incomplete assessment data thus negating the credibility of the assessment process;

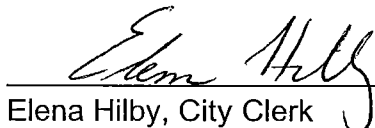
NOW, THEREFORE, BE IT RESOLVED that the City of Milton Common Council urges the Wisconsin State Legislature and Governor to oppose Senate Bill 158 modifying Wisconsin statute 70.47 (7) (aa).

Adopted this 2<sup>nd</sup> day of May, 2017

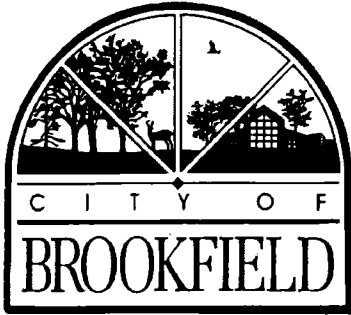


Anissa Welch, Mayor

Attest:



Elena Hilby, City Clerk



**MAYOR**

*Steven V. Ponto*

2000 North Calhoun Road  
Brookfield, Wisconsin 53005-5095  
(262) 787-3525 - FAX (262) 796-6671  
ponto@ci.brookfield.wi.us

May 2, 2017

Senator Dan Feyen, Chair, and members of the Senate  
Committee on Economic Development, Commerce and Local Government  
Room 306 South  
Wisconsin State Capitol  
Madison, WI 53707

RE: Senate Bill 158

Honorable Senators:

I am writing today to urge you to oppose Senate Bill 158 which would allow property owners who refuse an assessor's request to enter their property to appear before the board of review and file excessive assessment claims. This bill would result in poor public policy and inequity among property taxpayers.

Current state law is designed to ensure that property assessments are as accurate and fair as possible. Property assessments in the State of Wisconsin are based on market value. When private realtors, appraisers and homebuyers inspect and value properties, they do interior inspections. If the Legislature passes SB 158 as proposed, it will be asking municipal assessors across Wisconsin to do fair and consistent market-based valuations, but deny them the tools required to do so. As we know, two homes that are identical from the outside can have vastly different values due to interior factors.

Further, the bill would allow a taxpayer who has not complied with a request to provide income information on commercial property to the municipal assessor to file a claim for an excessive assessment even though the person is prohibited from appearing before the board of review. Such income information allows the assessor to make accurate assessments while keeping valuations uniform, and such data is already protected as confidential under existing state law. Both of the aforementioned provisions in the bill will result in more litigation and less uniformity and equity among taxpayers.

Finally, the bill would further require assessors to provide written notice to each property owner regarding their right to refuse entry to their property. This would be extremely costly and inefficient and imposes yet another unfunded mandate to municipalities.

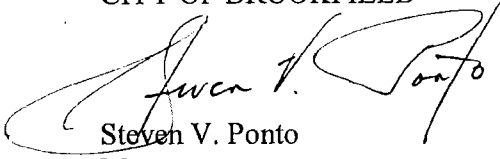


Senator Dan Feyen, Chair, and members of the Senate  
Committee on Economic Development, Commerce and Local Government  
May 2, 2017  
Page 2

In the interest of fairly distributing the property tax burden, providing municipal assessors the tools they need to do their jobs accurately, and promoting efficiency in government, I encourage your opposition to SB 158. Thank you for your consideration.

Respectfully,

CITY OF BROOKFIELD

A handwritten signature in black ink, appearing to read "Steven V. Ponto". The signature is fluid and cursive, with a large initial "S" and a distinct "Ponto" at the end.

Steven V. Ponto  
Mayor



To: Members, Senate Economic Development, Commerce and Local Government Committee

From: Tom Larson, Senior Vice President of Legal and Public Affairs

Date: May 3, 2017

Re: SB 158 – Right to Challenge Property Tax Assessments

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The Wisconsin REALTORS® Association (WRA) supports SB 158, which seeks to restore the fundamental right of all homeowners to challenge property tax assessments they believe to be incorrect, regardless of whether they deny assessors entry into their homes.

### **Background**

Article VII, Section 1, of the Wisconsin Constitution requires the method of taxing real property to be uniformly applied to all classes of property. To ensure a uniform method of taxation, assessors are required to assess real estate at its fair market value, using the best information the assessor can practicably obtain. See Wis. Stat. § 70.32. "The fundamental equity of the entire real estate property tax system is based on the fairness of the assessment procedures, both as to the evaluation and the subsequent assessment." *State ex rel Hensel v. Town of Wilson*, 55 Wis. 2d 101, 109 (1972).

Fairness is also a fundamental principle of the due process protections provided to property owners under the Due Process Clause of the Fourteenth Amendment. See *Lassiter v. Dept. of Social Services of Durham County, N.C.*, 452 U.S. 18, 24 (1981). The Due Process clause requires that a property owner whose interests have been affected by a government action be given both notice and an opportunity to be heard before the property owner is deprived of any significant property interest. *Boddie v. Connecticut*, 401 U.S. 371, 379 (1971). As the Minnesota Supreme Court aptly recognized, "'due process of law' [is one of those] fundamental rights which our system of jurisprudence has always recognized, which not even the legislature can disregard." *State ex rel. Blaisdell v. Billings*, 57 N.W. 794, 794-95 (Minn. 1894).

By prohibiting property owners from challenging their assessments if they deny the assessor entry into their home, Wis. Stat. §§ 70.47(7)(aa) and 74.37(4)(a) deprives property owners of their fundamental due process rights. In doing so, the statutes also jeopardize the accuracy and uniformity of Wisconsin's property tax system, which relies on property owners to identify inaccuracies.

### **Assessors Make Mistakes**

Property tax assessments are opinions of value. Assessors are human and humans make mistakes. Because of the complexity of property tax assessments, assessors can make mistakes based upon a variety of factors including erroneous information about a property, using the wrong comparables to determine fair market value, or applying an incorrect valuation methodology. The following are several examples where Wisconsin courts determined that assessors made mistakes:

- *Noah's Ark Family Park v. Board of Review of the Village of Lake Delton*, 210 Wis. 2d 310 (1997)(property owner successfully challenged a property tax assessment that used an incorrect assessment methodology);
- *U.S. Oil Co., Inc. v. City of Milwaukee*, 2011 WI App. 4 (property owner successfully challenged tax assessment on the basis that it violated Wisconsin's Uniformity Clause);
- *Walgreen Co. v. City of Madison*, 2008 WI 80 (property owner successfully challenged a property tax assessment that used above-market leases to determine fair market value);
- *State ex rel. Levine v. Board of Review*, 191 Wis. 2d 363 (1995) (a property owner successfully challenged a property tax assessment that used an incorrect assessment methodology by applying different valuation standards to old and new properties).

In some cases, assessors have intentionally assessed a property incorrectly by ignoring appraisal standards in the law for personal reasons. See e.g., *Semple v. Langlade County*, 75 Wis. 354 (1890)(intentionally ignoring state statutes requiring assessment and taxation of improvements upon government homesteads). As the Wisconsin Supreme Court has noted,

[A]ssessments are as liable to error as other processes. Assessors may commit errors of judgment and mistakes of fact. So that these are exceptional and happen in good faith, not affecting the principle or the general equality of the assessment, they will not vitiate it. . . . [T]he court has also frequently held that violations or evasions of duty imposed by law to secure a just and uniform rule of assessment, whether occurring by mistake in law or by fraud in fact, which go to impair the general equality and uniformity of the assessment, and thereby to defeat the uniform rule of taxation, vitiate the whole assessment as the foundation of a valid tax.

*Marsh v. Board of Sup'rs of Clark County*, 42 Wis. 502, 510 (1877)(citations omitted).

By eliminating the ability of property owners to challenge assessments if they refuse to allow assessors to enter their home, Wis. Stat. §§ 70.47(7)(aa) and 74.37(4)(a) remove the primary means to ensure that assessments are fair, accurate, and are performed uniformly in accordance with the Uniformity Clause.

### **Assessments Are Presumed to Be Accurate**

The state's current "burden of proof" framework for challenging a property tax assessment alone is a sufficient means to ensure that our property tax assessment system is accurate and fair for everyone. Under this framework, the assessor's opinion of value is presumed to be correct and the property owner has the burden to prove the assessment is incorrect. This is a very high burden and requires the property owner to show there is no credible evidence to support the assessor's valuation. Consider the following:

- If a property owner challenges an assessment, the assessor's assessment is presumed to be correct. See Wis. Stat. § 70.49(2).
- On appeal to the board of review, the assessors valuation "[is] prima facie correct and [is] binding on the board of review in the absence of evidence proving it to be incorrect." *State ex rel. Kimberly-Clark Co. v. Williams, City Clerk.*, 160 Wis. 648, 649 (1915)(citations omitted).
- Even if the property owner provides evidence that the assessment was too high, the board of review must uphold the assessor's opinion of value "[i]f there is credible evidence before the [b]oard that may in any reasonable view support the assessor's

valuation." *State ex rel. North Shore Development v. Axtell, City Clerk*, 216 Wis. 153, 157 (1934).

- If the property owner then decides to appeal to the circuit court, the findings of the board of review will be upheld if the evidence presented in favor of the assessment furnishes a substantial basis for the valuation. *State ex rel. Brighton Square v. City of Madison*, 178 Wis. 2d 577, 582 (Ct. App. 1983).

The assessor's opinion of value is given tremendous deference by both the board of review and a reviewing court on appeal. The only way a property owner can overcome this presumption of correctness is to present significant evidence showing the assessor was incorrect. *Walgreen Co. v. City of Madison*, 2008 WI 80, ¶ 17 (citations omitted). In situations where a homeowner refuses to allow an assessor to enter the property and the assessor provides an opinion of value absent an inspection of the interior of the home, the assessor's opinion of value is presumed to be correct and the property owner must provide significant evidence demonstrating that the assessor was incorrect.

For these reasons, we respectfully request that you support SB 153. If you have questions, please contact Tom Larson ([tlarson@wra.org](mailto:tlarson@wra.org)) at (608) 241-2047.



**State of Wisconsin • DEPARTMENT OF REVENUE**

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<http://www.revenue.wi.gov>

*Scott Walker*  
Governor

*Richard G. Chandler*  
Secretary of Revenue

May 3, 2017

**Testimony to the Senate Committee on Economic Development, Commerce and Local**

**Government on Senate Bill 158**

Chairman Feyen and members of the committee, thank you for the opportunity to testify today on Senate Bill 158, which allows a property owner to refuse an assessor access to their property. My testimony today will be for information only.

Currently Wisconsin Statute 70.32 requires an assessor to value property based upon the actual view of the property, or the best information available, and establishes sales as the best indicator of value. Under standard appraisal practices, an exterior and interior view of the property represent the best information for determining values. When interior and exterior information is available it allows an assessor to determine fair and equitable values for all properties in a municipality.

Current law requires a view of the property by the assessor for the property owner to appeal their assessment to the Board of Review. This bill allows a property owner to refuse access to the property and maintains the option of appeal. This bill also states that the assessor may not increase the value based on the refusal to allow access and requires an assessor to provide written notice of the owner's right to refuse entry.

This bill would change the property information collection standard. Under the proposed law, owners could refuse access to view the interior of their property, maintain the ability to appeal and not permit the assessor to change the assessed value when access was denied. Section 70.05(4m) of this bill could be interpreted to mean that if entry is refused, the assessor loses the ability to increase the assessment for market value changes and new construction.



This result could lead to inconsistent property information and non-uniform values since some information would only be available for certain properties and not all. If interior information is unavailable, values would primarily be determined based upon exterior reviews or outdated aerial photos for those properties not viewable from a public area.

Additionally, when an assessor uses the income method to value property, a property owner must provide income and expense information when contesting values. Commercial property does not exchange on the open market as frequently as residential property. Therefore, assessors use a property's rent or income and expense information to determine the value most likely attainable on the open market. Current law requires disclosure of income and expense information by the property owner when appealing; this helps assessors to obtain consistent information and determines uniform commercial values. This bill states that property owners can contest an assessment without providing income and expense information. Similar to residential property owners, under this proposed change commercial property owners could share less information with an assessor since they would be able file a claim without disclosing the property's income and expense information. Assessed values would then be determined on general income and expense information that may not reflect the true income and expenses of the property.

Generally, this bill could lead to assessed values that are not uniform, which will result in inequitable tax distribution.

Thank you again for the opportunity to discuss Senate Bill 158. I would be happy to take any questions.