DAVID CRAIG
STATE SENATOR

Senate Committee on Agriculture, Revenue, and Financial Institutions
Public Hearing, February 6, 2020
Senate Bill 624
Senator David Craig, 28th Senate District

Chairman Marklein and Committee Members:

Thank you for taking testimony on Senate Bill 624 relating to prohibiting an assessor from changing the valuation of property solely on a recent sale of the property. Specifically, SB 624 seeks to clarify that the practice of using the sales price of real estate as the sole basis for increasing the assessed value ("chasing sales") is prohibited.

Wisconsin's constitution requires all property tax assessments to be conducted uniformly. Specifically, Article VIII, Section One states, "The rule of taxation shall be uniform…" This language, known as the "uniformity clause," was inserted into the constitution in the 1800s to prevent state and local lawmakers from giving preferential treatment to some property owners over others. As the Wisconsin Supreme Court has recognized, the purpose of the uniformity clause is "to protect the citizens against unequal, and consequently unjust taxation."

To ensure property assessments are accurate and fair, state law requires municipalities to maintain the assessed value of each major class of property within ten percent of fair market value once every five years. When assessed values fall outside this range, assessors are supposed to perform complete revaluations of the properties, which requires a closer examination of each property to make sure the information on the property is accurate and the value reflects current market conditions.

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Although the Wisconsin Department of Revenue prohibits the practice of "chasing sales" (Wisconsin Department of Revenue, 2014), assessors regularly increase the assessed value of property based on its recent sale. In a sampling of twenty-four communities around the state, an analysis by the *Milwaukee Journal Sentinel* in 2014 found that at least five percent of the new assessments were identical to a property's selling price. In Racine County, for example, an assessor admitted to using the sale price to establish the assessed value for twenty percent of the properties that sold in two communities she assessed.

While the sale of a property is important information to be considered in the assessment, the uniformity clause prohibits the sale from being the sole basis for the assessment. Other factors related to the sale must be considered including days on market and sales of other comparable properties in the neighborhood.

To help stop the assessors from the practice of "chasing sales", Wisconsin should follow the lead of states like New Hampshire and Michigan, which specifically prohibit "chasing sales" by statute. If nothing is done to prevent this practice from continuing, new homebuyers will continue to be harmed by paying more than their fair share of property taxes.

Thank you for your attention and consideration of my testimony.

Wisconsin REALTORS® Association

To: Members, Senate Committee on Agriculture, Revenue and Financial Institutions

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

Date: February 6, 2020

Re: SB 624, as amended by SSA1 – Chasing Sales – Property Tax Assessments

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The Wisconsin REALTORS® Association (WRA) supports SB 624, as amended by SSA1, legislation that seeks to notify property owners about the prohibition, under current law, on using the sales price of real estate as the sole basis for adjusting the assessed value ("chasing sales").

Chasing Sales Violates the Uniformity Clause -- Wisconsin's Constitution requires all property tax assessments to be assessed uniformly. Specifically, Article VIII, Section 1 states, "The rule of taxation shall be uniform. . . ." The uniformity clause requires property tax assessments to be accurate and fair, and prohibits assessments from giving preferential treatment to some property owners over others.

According to the Wisconsin Property Tax Assessment Manual (Assessment Manual), the practice of adjusting the assessed value of some properties based upon a recent sale and not other properties in the same neighborhood is a violation of the uniformity clause. *See* WPTAM, 9-10. The manual states, "[s]ingling out specific properties as a result of a sale of the subject, while not addressing all properties, would be another arbitrary method of assessment resulting in non-uniform assessments." *Id.*

Chasing Sales Results In New Homebuyers Paying More Than Their Fair Share of Property Taxes -- When assessors adjust the value of recently sold homes without adjusting the values of other similar properties in the same neighborhood, the properties are not being assessed uniformly and new homebuyers are required to pay more than their fair share of property taxes. By making new homebuyers pay more in property taxes, Wisconsin families will have greater difficulty affording homeownership.

Senate Substitute Amendment 1 – Under SSA 1, the Notice of Changed Assessment that is sent to all property owners when a property tax assessment is different from the previous year will include a statement informing property owners that "chasing sales" is prohibited under current law and more information can be obtained from the Wisconsin Department of Revenue's website.

We respectfully request your support for SB 624, as amended by SSA1. If you have questions or need additional information, please contact us.

Current Law Prohibiting Chasing Sales

(6) MONUMENTS, PLAT REQUIREMENTS. The provisions of s. 236.15 as to monuments, and the provisions of s. 236.20 as to form and procedure, insofar as they are applicable to the purposes of assessors' plats, shall apply. Any stake or monument found and accepted as correct by a professional land surveyor laying out an assessor's plat shall be indicated as "stake found" or "monument found" when mapping the plat and such stake or monument shall not be removed or replaced even though it is inconsistent with the standards of s. 236.15.

(7) CERTIFICATE. When completed, the assessor's plat shall be filed with the clerk of the governing body that ordered the plat. On its title page shall appear the sworn certificate of the professional land surveyor who made the plat, which shall state and contain:

(a) The name of the governing body by whose order the plat was made, and the date of the order.

(b) A clear and concise description of the land so surveyed and mapped, by government lot, quarter quarter–section, township, range and county, or if located in a city or village or platted area, then according to the plat; otherwise by metes and bounds beginning with some corner marked and established in the United States land survey.

(c) A statement that the plat is a correct representation of all the exterior boundaries of the land surveyed and each parcel thereof.

(d) A statement that the professional land surveyor has fully complied with the provisions of this section in filing the same.

(8) PLAT FILED WITH GOVERNING BODY. Within 2 days after the assessor's plat is filed with the governing body, it shall be transmitted to the department of administration by the clerk of the governing body which ordered the plat. The department of administration shall review the plat within 30 days of its receipt. No such plat may be given final approval by the local governing body until the department of administration has certified on the face of the original plat that it complies with the applicable provisions of ss. 236.15 and 236.20. After the plat has been so certified the clerk shall promptly publish a class 3 notice thereof, under ch. 985. The plat shall remain on file in the clerk's office for 30 days after the first publication. At any time within the 30–day period any person or public body having an interest in any lands affected by the plat may bring a suit to have the plat corrected. If no suit is brought within the 30–day period, the plat may be approved by the governing body, and filed for record. If a suit is brought, approval shall be withheld until the suit is decided. The plat shall then be revised in accordance with the decision if necessary, and, without rereferral to the department of administration unless rereferral is ordered by the court. The plat may then be approved by the governing body and filed for record. When so filed the plat shall carry on its face the certificate of the clerk that all provisions of this section have been complied with. When recorded after approval by the governing body, the plat shall have the same effect for all purposes as if it were a land division plat made by the owners in full compliance with ch. 236. Before January 1 of each year, the register of deeds shall notify the town clerks of the recording of any assessors' plats made or amended during the preceding year, affecting lands in their towns.

History: 1977 c. 29 s. 1646 (3); 1979 c. 221, 248, 355, 361; 1983 a. 473; 1987 a. 172; 1989 a. 31, 56; 1991 a. 316; 1995 a. 27 ss. 3361, 3362, 9116 (5); 1997 a. 27, 99; 1999 a. 96; 1999 a. 150 s. 672; 2005 a. 41, 254; 2013 a. 358; 2017 a. 102.

Cross–reference: See also ch. Adm 49, Wis. adm. code.

The reference to s. 66.60 [now s. 66.0703] in sub. (1) refers only to the collection procedures; it does not make all of that section apply. Dittner v. Town of Spencer, 55 Wis. 2d 707, 201 N.W.2d 45 (1972).

The division of a lot within an assessor's plat is an amendment of the plat and must be made by following the procedure under this section. Ahlgren v. Pierce County, 198 Wis. 2d 576, 543 N.W.2d 812 (Ct. App. 1995), 95–2088.

The provisions of s. 236.41 relating to vacation of streets are inapplicable to assessors plats. Once properly filed and recorded, an assessor's plat becomes the operative document of record, and only sections specified in s. 236.03 (2) apply to assessor's plats. Schaetz v. Town of Scott, 222 Wis. 2d 90, 585 N.W.2d 889 (Ct. App. 1998), 98–0841.

Section 236.03 (2) sets forth the "applicable provisions" of ss. 236.15 and 236.20 with which assessors' plats must comply under s. 70.27 (8). A determination by the state under sub. (8) that an assessor's plat does not comply with the applicable provisions of ss. 236.15 and 236.20 may be reviewed under ch. 227. 58 Atty. Gen. 198.

The temporary survey monuments required to be set in the field prior to the submission of an assessor's plat for state level review are not made permanent until the recording of the assessor's plat. 59 Atty. Gen. 262.

Section 236.295 does not apply to assessors' plats. The amendment or correction of an assessor's plat under sub. (4) is an exercise of the police power that is accomplished for the same purposes and in the same manner as the original assessor's plat. The governing body involved is not required to conduct a public hearing concerning a proposed amendment or correction to an assessor's plat of record. Other questions concerning the amendment or correction of an assessor's plat are answered. 61 Atty. Gen. 25.

70.28 Assessment as one parcel. No assessment of real property which has been or shall be made shall be held invalid or irregular for the reason that several lots, tracts or parcels of land have been assessed and valued together as one parcel and not separately, where the same are contiguous and owned by the same person at the time of such assessment.

70.29 Personalty, how entered. The assessor shall place in one distinct and continuous part of the assessment roll all the names of persons assessed for personal property, with a statement of such property in each village in the assessor's assessment district, and foot up the valuation thereof separately; otherwise the assessor shall arrange all names of persons assessed for personal property on the roll alphabetically so far as convenient. The assessor shall also place upon the assessment roll, in a separate column and opposite the name of each person assessed for personal property, the number of the school district in which such personal property is subject to taxation.

History: 1991 a. 316.

70.30 Aggregate values. Every assessor shall ascertain and set down in separate columns prepared for that purpose on the assessment roll and opposite to the names of all persons assessed for personal property the number and value of the following named items of personal property assessed to such person, which shall constitute the assessed valuation of the several items of property therein described, to wit:

(9) The number and value of steam and other vessels.

(11) The value of machinery, tools and patterns.

(12) The value of furniture, fixture and equipment.

(13) The value of all other personal property except such as is exempt from taxation.

History: 1981 c. 20; 1983 a. 27 s. 2202 (45); 1983 a. 405; 1991 a. 39.

70.32 Real estate, how valued. (1) Real property shall be valued by the assessor in the manner specified in the Wisconsin property assessment manual provided under s. 73.03 (2a) from actual view or from the best information that the assessor can practicably obtain, at the full value which could ordinarily be obtained therefor at private sale. In determining the value, the assessor shall consider recent arm's–length sales of the property to be assessed if according to professionally acceptable appraisal practices those sales conform to recent arm's–length sales of reasonably comparable property; recent arm's–length sales of reasonably comparable property; and all factors that, according to professionally acceptable appraisal practices, affect the value of the property to be assessed.

(1g) In addition to the factors set out in sub. (1), the assessor shall consider the effect on the value of the property of any zoning ordinance under s. 59.692, 61.351, 61.353, 62.231, or 62.233, any conservation easement under s. 700.40, any conservation restriction under an agreement with the federal government and any restrictions under ch. 91. Beginning with the property tax assessments as of January 1, 2000, the assessor may not consider the effect on the value of the property of any federal income tax credit that is extended to the property owner under section 42 of the Internal Revenue Code.

(1m) In addition to the factors set out in sub. (1), the assessor shall consider the impairment of the value of the property because

Wisconsin Department of Revenue

2018 Wisconsin Property Assessment Manual

(R. 12-17)

Chapter 9

Part 1: Real Estate Concepts

Part I of this chapter provides a background in real estate terms and concepts that every assessor must know in order to accurately identify what is being valued.

The assessor will frequently encounter the terms "real estate" and "real property." In appraisal terms, real estate refers to the physical items; the land and any structures and improvements located on the land while real property is the rights, privileges, and benefits of owning the real estate. Sec. 70.03, Wis. Stats., states "The terms 'real property', 'real estate' ... shall include not only the land itself but all buildings and improvements thereon, and all fixtures and rights and privileges appertaining thereto." Thus, for assessment purposes in the State of Wisconsin, the terms 'real property' and 'real estate' are synonymous

Bundle of Rights

In sec. 70.03, Wis. Stats. the definition of real property includes "all fixtures and rights and privileges appertaining thereto." This means the assessor must not consider only the physical attributes of the land and improvements but the intangible benefits that are associated with them. These intangibles are collectively called the bundle of rights and include the following:

- The right to sell an interest
- The right to lease an interest and to occupy the property
- The right to mortgage an interest
- The right to give an interest away
- The right to do none or all of these things

It is possible to own all or just some of these rights. The extent of ownership of these rights determines what kind of estate, or interest, one has in the property.

When a property owner possesses all the bundle of rights, they have a fee simple ownership interest (or a fee simple estate) in the property. A fee simple ownership interest is the fullest form of private ownership subject only to certain government limitations. The estate has no time limit on its existence, is inheritable, and is freely transferable during the owner's life by gift or sale.

Public Restrictions on Real Property

The bundle of rights is subject to certain governmental limitations which may or may not affect the market value of property. These limitations include:

- Taxation - the power to tax property to raise revenues to support government. Any unpaid property taxes represent a lien on property. That is, the property itself becomes security for the payment of the debt. Tax liens have priority over all other liens.
- Police Power - the right to regulate the use of property for the public welfare. Examples of police power include zoning ordinances, housing and building codes, and subdivision controls.
- Escheat - the power to take title to property if the owner dies without an heir.

RULE OF TAXATION = UNIFORMITY

Uniformity

Section 1, Article 8 of the Wisconsin Constitution states that "The rule of taxation shall be uniform...". This directive is woven throughout chapters 70 and 73 of Wisconsin Statutes in the structuring of the laws for the assessment and taxation of real property. Uniformity in taxation ensures equity among taxpayers and, through the equalization process, equity among jurisdictions across the state.

Uniformity occurs when all property is assessed at full value or when all classes of property are assessed at the same percentage of full value. Because appraising is not an exact science and is based on the 'typical buyer and typical seller' there will always be variances in individual properties. The ideal of every single property being valued at exactly 100% of its value, no more, no less, is a practical impossibility. The statutes have acknowledged this by allowing assessments to range from 90% to 110% of full value.

At a broader level, there is uniformity as applied across municipalities. This ensures that each community bears its fair share of the tax burden. This becomes uniformity at the state level. Equalization is the method used to achieve a high degree of uniformity (equity) across communities at the state level.

The primary source for the concept of uniformity in the Wisconsin assessment process comes to us directly from the Wisconsin Constitution. Section 1 of Article 8 reads as follows:

> **Article VIII. Finance.**
> "Section 1. [Rule of taxation uniform; income, privilege and occupation taxes.] The rule of taxation shall be uniform but the legislature may empower cities, villages or towns to collect and return taxes on real estate located therein by optional methods. Taxes shall be levied upon such property with such classifications as to forests and minerals including or separate or severed from the land, as the legislature shall prescribe. Taxation of agricultural land and undeveloped land, both as defined by law, need not be uniform with the taxation of each other nor with the taxation of other real property. Taxation of merchants' stock-in-trade, manufacturers' materials and finished products, and livestock need not be uniform with the taxation of real property and other personal property, but the taxation of all such merchants' stock-in-trade, manufacturers' materials and finished products and livestock shall be uniform, except that the legislature may provide that the value thereof shall be determined on an average basis. Taxes may also be imposed on incomes, privileges and occupations, which taxes may be graduated and progressive and reasonable exemptions may be provided."

This has become to be known as the Uniformity Clause. There are three basic principles of uniformity which apply to each constitutional class of taxable property:

1. All property within the class must be taxed on the basis of equality so far as practicable and all property must bear its burden equally on the full value basis of the value standard for that statutory class (market value for personal property, residential, commercial, manufacturing, productive forest, and other; use value

for agricultural; and 50% of market value for undeveloped and agricultural forest).
2. While there can be no classification of property for different rules or rates of property taxation, the legislature can classify as between property that is to be taxed and that which is to be wholly exempt, and the test of such classification is reasonableness.
3. There can be variations in the mechanics of the property assessment or tax imposition so long as the resulting taxation shall be borne with as nearly as practicable equality on a full value basis of the value standard for that statutory class with other taxable property.

Uniformity does not mean that the assessments must be at the full value of the statutory value standard. It does require that assessments be at the same percent or fraction of the full value upon which the statutory class is based. Uniformity is required for all property in a constitutional class, which includes all taxable property.

Uniformity does not require that the identical method or approach be used in determining what the assessed value should be. The ultimate goal is equality between the tax burden of each of the property owners, and that is achieved by using the most appropriate and effective approach or methodology for calculating the assessed value using the value standard for that statutory class. For example, it is incorrect to presume that all items classified as personal property should be valued using the year of acquisition times the annual factor shown in the schedules DOR provides. The assessor must recognize that in some instances the sales comparison method, or some other methodology, may yield a more reliable indicator of true cash (i.e. market) value. What is critical for uniformity is not the methodology used, but that the tax burden of each dollar's worth of one sort of property is liable for exactly the same tax as a dollar's worth of any other property in that statutory class.

There are circumstances where the assessment process has resulted in non-uniform treatment of properties on the roll. The uniformity clause is violated where the assessor has significant differences between assessment to full value ratios of statutory classes (residential as compared to commercial or personal property, for example), or strata within a statutory class (on water vs. off water residential; newer vs. older homes). Changing the values of properties in certain neighborhoods while not adjusting the values in other neighborhoods, particularly when sales activity shows relative values are changing, fails the uniformity test. Singling out specific properties as a result of a sale of the subject, while not addressing all properties, would be another arbitrary method of assessment resulting in non-uniform assessments.

Valuation Principles

Appraisal and assessment theory identify various principles to explain the actions of the real estate market. The interaction of these principles produces the actions of the real estate market. The application of these principles forms the basis of the techniques used by the assessor to arrive at the market value of a given property.

DOR Enforcement Letter

State of Wisconsin • DEPARTMENT OF REVENUE

DIVISION OF STATE AND LOCAL FINANCE • OFFICE OF TECHNICAL & ASSESSMENT SERVICES • MADISON, WI

ADDRESS MAIL TO:
2135 Rimrock Road • P.O. Box 8971
Madison, WI 53708-8971

TELEPHONE: (608) 266-7760
FAX: (608) 267-0835
E-MAIL: bapdor@revenue.wi.gov

January 22, 2014

VIA CERTIFIED MAIL

James Danielson & Lee DeGroot
Accurate Appraisal, LLC
1428 Midway Road
P.O. Box 415
Menasha, WI 54952-0415

Dear Mr. Danielson & Mr. DeGroot:

Thank you for meeting with us on December 3, 2013 to discuss your 2012 assessment practices in the Village of Germantown, Washington County. We appreciate the information you provided at the meeting. However, we expect you to comply with the Wisconsin Property Assessment Manual (WPAM).

Under sec. 73.09(7), Wis. Stats., DOR has the authority to investigate and revoke assessor certification for issues involving fraud, neglect, or misconduct. While we did find misconduct, we are not pursuing revocation at this time since we do not have any prior instances of this misconduct on file. Below is a summary of our expectations for 2014.

Maintain uniform assessments
You are required to maintain uniform assessments according to the WPAM. Chapters 4 and 7 of the WPAM define uniformity and specify what changes you can make based on the type of assessment. You may not single out specific properties as a result of a sale during a maintenance assessment. This is in direct conflict with the WPAM and results in non-uniform assessments. You must adhere to the standards and practices specified in the WPAM.

Verify and validate sales
You are required to verify and validate sales according to Chapter 6 of the WPAM. You must verify the property characteristics at the time of sale through an interview of the grantor and grantee, and by physically viewing the property. If these attempts are not successful, you must request, by mail, the necessary information for completing the property record card and/or evaluating the property characteristics at the time of sale.

Classification reviews
At the meeting, we also discussed the importance of annually reviewing classification according to Chapter 5 of the WPAM. You must review eligibility for agricultural, undeveloped and agricultural forest classifications on an annual basis.

We will collect information from the 2014 process to ensure you are adhering to the WPAM. Please be aware that failure to follow state law and the WPAM may result in revocation of your certification. Thank you for your cooperation.

Sincerely,

Scott R. Shields, Director
Technical & Assessment Services

cc: Claude Lois, Administrator, Division of State and Local Finance
Tonya Buchner, Director, Equalization Bureau
Pat Chaneske, Supervisor of Equalization, Milwaukee District

State of Wisconsin • DEPARTMENT OF REVENUE

DIVISION OF STATE AND LOCAL FINANCE • OFFICE OF TECHNICAL & ASSESSMENT SERVICES • MADISON, WI

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E-MAIL: bapdor@revenue.wi.gov

January 22, 2014

David Schornack, Administrator
Village of Germantown
N112 W17001 Mequon Road
Germantown, WI 53022

Dear Mr. Schornack:

The Wisconsin Department of Revenue (DOR) received a complaint about the 2012 assessment practices of Village of Germantown assessors, Jim Danielson and Lee DeGroot of Accurate Appraisal. Under sec. 73.09(7), Wis. Stats., DOR has the authority to investigate and revoke assessor certification for issues involving fraud, neglect, or misconduct.

We met with Mr. Danielson and Mr. DeGroot on December 3, 2013, to discuss the situation. The following summarizes our review and findings.

Summary of our review

Failure to maintain uniform assessments according to the WPAM

- Mr. Danielson and Mr. DeGroot changed assessments at open book during a maintenance year when property owners presented sales information, but no other properties in the municipality had an assessment change due to these sales
- The Wisconsin Property Assessment Manual (WPAM) defines uniformity and specifies what changes an assessor can make based on the type of assessment. Singling out specific properties as a result of a sale during a maintenance assessment is in direct conflict with the WPAM. The practice results in non-uniform assessments.
- Mr. Danielson and Mr. DeGroot must maintain uniform assessments and adhere to the standards and practices specified in the WPAM

Failure to verify and validate sales according to the WPAM

- Mr. Danielson and Mr. DeGroot did not follow the sales verification and validation process specified in the WPAM. Chapter 5 of the WPAM states that assessors must verify the property characteristics at the time of sale through an interview of the grantor and grantee and by physically viewing the property. If these attempts are not successful, the assessor must request, by mail, the necessary information for completing the property record card and/or evaluating the property characteristics at the time of sale.
- Mr. Danielson and Mr. DeGroot are required to verify and validate sales according to the WPAM.

Classification reviews

- At the meeting, we also discussed the importance of annually reviewing classification according to the WPAM. Mr. Danielson and Mr. DeGroot must review eligibility for agricultural, undeveloped and agricultural forest classifications on an annual basis.

DOR did find misconduct; however, DOR is not pursuing certification revocation at this time since DOR has no prior instances of this misconduct on file.

Please note that DOR will review the assessors' 2014 practices to ensure compliance with the WPAM.

Municipal responsibilities

- Your municipality is responsible for hiring an assessor and monitoring the assessor's work
- We encourage you to review the DOR Guide for Wisconsin Municipal Officials (http://www.revenue.wi.gov/pubs/slf/pb062.pdf) for information on the assessment process and sample contracts

If you have questions, please contact me at (608) 266-8223.

Sincerely,

Scott R. Shields, Director
Technical & Assessment Services

cc: Lee DeGroot & Jim Danielson, Accurate Appraisal, Village of Germantown Assessor
Claude Lois, Administrator, Division of State and Local Finance
Tonya Buchner, Director, Equalization Bureau
Pat Chaneske, Supervisor of Equalization, Milwaukee District

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E-MAIL: bapdor@revenue.wi.gov

October 24, 2013

James Danielson
Accurate Appraisal, LLC
1428 Midway Road
P.O. Box 415
Menasha, WI 54952-0415

VIA CERTIFIED MAIL

Dear Mr. Danielson:

The Wisconsin Department of Revenue (DOR) completed a review of your 2012 assessment practices in the Village of Germantown, Washington County. As a result of your August 6, 2013 letter and our review, it is clear that you are not following the requirements for Assessors as specified by state law and the Wisconsin Property Assessment Manual (WPAM). State law requires Assessors to follow the WPAM.

Below is a summary of our findings and information on a meeting you are required to attend.

1. Summary of our findings

Failure to maintain uniform assessments according to the WPAM

Your August 6, 2013 letter stated that you changed assessments at open book during a maintenance year when a property owner presented sales information, where no other properties had an assessment change.

Chapter 4 and 7 of the WPAM define uniformity and specify what changes an Assessor can make based on the type of assessment. Singling out specific properties as a result of a sale during a maintenance assessment is in direct conflict with the WPAM. The practice results in non-uniform assessments.

In December 2009, DOR added a chart to Chapter 4 of the WPAM. This chart clearly lists what work is appropriate and required by type for the 2010 assessment and future assessment years. DOR presented the information during the November 2009 session required for Assessors.

Failure to verify and validate sales according to the WPAM

In your August 6, 2013 letter, you admit that you did not follow the sales verification and validation process specified in the WPAM. Specifically, Chapter 5 of the WPAM states that Assessors must verify the property characteristics at the time of sale through an interview of the grantor and grantee and by physical viewing of the property. If these attempts are not successful, the Assessor must send inquiries by mail in order to obtain the necessary information for completing the property record card and/or evaluating the property characteristics at the time of sale.

DOR added these required steps to the WPAM in December 2006 for the 2007 assessment and future assessment years. DOR presented the requirements during the November 2006, 2007 and 2008 sessions required for Assessors.

2. Required Meeting/notification

As a result of our review, you and Lee DeGroot are required to meet with Division Administrator Claude Lois and me on November 19, 2013 at 11:00 AM. The meeting will be held at the DOR building in Madison, please stop at the reception desk where we will escort you to the meeting room. We will review your actions with the expectation that you correct your practices.

Sincerely,

Scott R. Shields, Director
Technical & Assessment Services

cc: Claude Lois, Administrator, Division of State and Local Finance
Tonya Buchner, Director, Equalization Bureau
Pat Chaneske, Supervisor of Equalization, Milwaukee District

4. The Open Book is an annual process for property owners to informally discuss the assessments. A revaluation is where the Assessor updates all properties to uniformly represent the full value subject to tax. You mentioned that 2012 was not a revaluation. You also mentioned that parcel GTNV-331-229 sold for $327,500 and that a visual inspection occurred on April 23, 2012. The parcel's assessment was changed to its sale price as a result of the arm's-length verification.
   a) Please explain why you changed this assessment.

5. Parcel GNTV-353-106 sold and was subsequently assessed at $726,600. You stated that an appraisal was presented at the 2012 Open Book for $562,000.
   a) Explain how you analyzed the appraisal.
   b) Explain the basis for the final assessed value.

6. You mentioned that property owners receive an assessment reduction when information is provided showing the assessed value is higher than market value.

   GNTV-324-968: assessment changed to sale price
   GNTV-331-229: assessment changed to sale price
   GNTV-241-41: assessment not changed to sale price
   GNTV-222-007: assessment not changed to sale price

   a) Explain why only certain properties were changed to the sale price.
   b) Explain if you made changes to the assessments of those properties that were similar to GNTV-324-968 and GNTV-331-229.

Please send your response by August 7, 2013 to my attention at the above address. Failure to provide an accurate and complete response may result in disciplinary action against your certification according to state law (sec. 73.03, Wis Stats.).

Thank you for your cooperation.

Sincerely,

S. Shields

Scott R. Shields, Director
Technical and Assessment Services

Journal Sentinel Study On Chasing Sales

TROUBLE WITH TAXES | WATCHDOG REPORT

Across Wisconsin, uneven property assessments fly in the face of fairness

In dozens of communities, 20% or more of property taxes are being paid by the wrong people, analysis shows

By Raquel Rutledge and Kevin Crowe of the Journal Sentinel staff

Oct. 18, 2014 4:00 p.m.

James Fleischman and his wife, Barbara, have lived in their five-bedroom ranch on Applewood Drive in Glendale for about three decades.

In recent years, the assessed value of their house hovered around $331,400, and they paid about the same in property taxes as their next-door neighbor.

But when the four-bedroom Cape Cod next door sold last year, all that changed. The assessor slashed the value from $319,400 to $249,900, a drop of nearly 22%.

That cut shaved $1,642 off the new owners' tax bill.

When the Fleischmans opened their bill, they owed $640 more. In fact, all the residents of Glendale whose property values didn't go down paid more.

That change in their neighbor's value didn't account for all of the Fleischmans' tax increase. Glendale officials had increased the overall tax levy, and the assessor had lowered a smattering of other residential properties.

But the change violated the state constitution, which was crafted to make the tax burden fair. Assessors are not supposed to modify values of individual properties based on market conditions unless they are revaluing entire neighborhoods or communities.

Yet assessors are doing it.

Regularly.

By measure after measure, in cities, towns and villages across Wisconsin, property assessors are discounting uniformity and trampling on fairness, while officials with the state Department of Revenue do little to rectify the disparities, an investigation by the Milwaukee Journal Sentinel has found.

In dozens of communities, 20% or more of residential property taxes are being paid by the wrong people, according to the Journal Sentinel's analysis of Department of Revenue records for each of the state's 1,852 municipalities. The analysis considered communities that had at least 20 sales last year; it did not include commercial property.

Assessors in 15% of municipalities statewide are doing "poor" work when it comes to residential property, as defined by the department's own standards, the analysis found.

"It gets a little frustrating," said James Fleischman. "You just live your quiet life and pay the price."

Under Wisconsin's system, reductions in value don't translate into lost revenue for municipalities. The tax load, or levy, is set by elected officials. It's just a matter of who pays it, much like squeezing the air in a balloon.

In Glendale, more than $17 million in value was knocked off an assortment of residences in 2013 alone, amounting to about 2% of the municipality's overall residential property tax base.

The same goes for St. Francis, where the assessor lopped $2.5 million off a patchwork of houses. And in Rock County's Town of Milton, where the assessor cut chunks from individual residential values when he wasn't reassessing whole neighborhoods.

In Milton, the cut in residential values contributed to a $314 increase in taxes for a homeowner whose assessment remained unchanged at $200,000.

Reductions are warranted only in isolated cases — for instance, if assessors or property owners discover errors were made in calculating the home's size, or if there was a fire or flood damage.

Several assessors with low marks defended their work, blaming a state law they say conflicts with the constitutional requirement that taxes be assessed uniformly. They vowed to continue their methods of assessment, even though the approach erodes communitywide fairness.

The disparities have intensified over the last three decades as more municipalities scrapped their assessment offices in favor of cheaper — and often more cursory — work by outside contractors.

While the swap often saves the municipality as a whole tens of thousands of dollars, sloppy work winds up costing most residents far more on their tax bills than they personally saved from the switch.

Pressure from the recession and a real estate market full of properties selling for less than their assessed values have amplified problems in recent years. The state's 935 certified assessors — most facing such a situation for the first time in their careers — have responded in assorted ways, some quickly knocking values down for those who make the request. Others refusing.

State regulators have largely ignored the fairness issue.

"By them not policing assessors, they are screwing over millions of taxpayers across the state," said Shannon Krause, a 27-year veteran assessor who recently joined Wauwatosa's in-house assessing department. "It's a huge disservice."

Local officials have little incentive to fix the inequities. They collect the tax money regardless of what portion each property owner pays. And most local leaders don't realize how skewed the system has become.

Nor do the residents footing the bill.

Since 2008, an average of just 13 people a year have filed complaints with the state's Office of Assessment Practices. There are 3.9 million properties in the state.

"Everybody and their uncle can recognize a pothole when they go over it," said Rocco Vita, assessment administrator for the Village of Pleasant Prairie. "Nobody can recognize a poor assessment job."

The uniformity clause

Founded on fairness in the late 1700s — even before Wisconsin became a territory — property taxes in Wisconsin are supposed to be determined uniformly. A two-bedroom ranch on Oak St. should be valued in the same way as similar ranches on the street and in the neighborhood. The tenet was written into the state constitution in the mid 1800s — Article VIII, Section 1:

"The rule of taxation shall be uniform..."

The uniformity clause was aimed at preventing state lawmakers and local leaders from favoring influential property owners and "to protect the citizen against unequal, and consequently unjust taxation," according to an 1860 court ruling.

Under state law, municipalities are required to have their overall level of assessments within 10% of fair market value once every five years. When values get too far out of whack, assessors are supposed to do full revaluations — meaning they inspect each property to make sure the information they have on file is accurate and to factor in current market conditions.

How often each of the state's 1,852 municipalities do full revaluations varies widely. Some do it every couple of years. Others wait 10 years or more.

Milwaukee does citywide market updates every year. While the city's 50-member assessment department doesn't physically inspect each of the 138,000 residential parcels, the team analyzes previous years' sales and considers adjustments to the values of all parcels each year based on market conditions.

Other communities rarely do such market adjustments.

Instead, most do "maintenance" work every year. This includes looking at permits where property owners may have added a deck, built a garage, or updated a kitchen. It also involves accounting for new construction, among other duties.

Much of the disparity occurs during these off years when full reassessments aren't done. That's a time — for the sake of uniformity — when assessors are not supposed to make changes to individual properties based on market conditions. If all property values are based on the same conditions, even if they all are over-assessed or under-assessed according to the current market, then everybody is still paying their fair share.

Otherwise, some property owners' payments are based on current economic conditions while others are paying based on past market conditions. Fairness is compromised.

Rachel Bocek was moving from Cudahy to Whitefish Bay when her house on Kimberly St. didn't sell — even when listed at more than $20,000 less than the assessed value.

Bocek decided she would keep the property and in 2012 asked the assessor to reduce the assessed value. She said the assessor discouraged her.

"I'm pretty tenacious and persistent," Bocek said. "It's like anything now, with health care or property taxes, with more and more things you have to be proactive and do things yourself if you want things to be done."

Bocek pulled data from comparable sales and gathered the required documentation. She said she was able to successfully make her case, primarily because she is savvy and resourceful.

The assessor cut the value of her house from $162,800 to $134,800, contributing to a more than $600 a year savings on her tax bill.

Asked about the change, Suzanne Plutschack, who does assessments for Cudahy, said it was more than the market that influenced her decision. The condition of the house played a role as well, she said. Plutschack did not physically inspect the property, however, relying instead on photos sent by Bocek.

It was a maintenance year for Cudahy property assessments and no wider-scope revaluation was done.

For Bocek's neighbors, values remained assessed between $155,000 and $169,000.

Their tax bills jumped about $80 — in part due to cuts to other property values.

'Chasing sales'

Some of the best evidence that assessors are ignoring the uniformity clause is easy to spot: Look at a property that recently sold. Find out its sales price. Compare that with its newly assessed value.

If they match, it's a good indication that the assessor didn't do the required work.

Assessments on properties that recently sold are supposed to be based on a variety of factors aside from physical characteristics, including how long the house has been on the market, how well it was advertised and how it stacks up against the sale of comparable homes in the area. While the sales price is a key component, it should not be the sole component.

All those considerations would typically influence the assessed value, making it "phenomenal" that the value would land exactly on the sales price, according to Mary Reavey, assessment commissioner for the City of Milwaukee.

In some states, such as New Hampshire, what is termed "chasing the sale" is banned. But it has become commonplace in pockets of Wisconsin, the Journal Sentinel found.

In 24 communities around the state, at least 5% of the new assessments matched a property's selling price in 2013.

One private assessor in Racine County, Kathy Romanak, used the sales price to set the assessed value for a fifth of all properties that sold in the two communities she assessed in 2013.

Of the 92 properties that sold in the Town of Waterford and Village of Rochester last year, Romanak adjusted the values of 18 to match the sales price.

Other similar properties remained unchanged.

"Yeah, that is unfair but that's the rule," Romanak said in an interview. "What's the assessor supposed to do? If you tell (the property owner) 'No,' they're going to fight it and come to the Board of Review and the board will agree with them."

But her theory hasn't been tested in years.

Romanak said she can't recall the last time a homeowner appealed an assessment to the board, a quasi-judicial body typically made up of local officials, citizens and public employees.

By chasing sales, assessors manipulateone of the key measurements the Department of Revenue relies on to determine how well each assessor is doing his or her job.

Setting the value at the sales price makes it appear as if assessors are on target and masks the need for a full update. And the disparities linger until the next reassessment.

The Town of Waterford and Village of Rochester, for example, go seven years between revaluations.

Accurate Appraisals, the company that dropped the value of the Glendale house next to the Fleischmans, had the highest percentages of assessments matching sales prices of the state's three largest firms in 2013. The company assessed 10% of all the properties that sold across the state, but accounted for about 25% of all the "chased sales," the Journal Sentinel analysis found.

Aside from Glendale, Accurate has contracts with about 100 other communities around the state, including Germantown, Bayside, Shorewood and until last year, Brown Deer.

In 2011, the company assessed the values of 26% of the homes that sold in Glendale to exact sales prices.

The statewide average is less than 2%.

Jim Wronski, former longtime assessor for Shorewood, said assessors often take their cue from how much elected officials seem to care about the quality of assessments.

"The more aggressive you are, the more complaints and more heat on you," Wronski said of assessors. "It boils down to what does the municipality admire, welcome and want. The contractor picks up on that: 'What do these people really want me to do and what are they going to pay me?' "

Assessments not so subjective

Conducting assessments is a methodical process, based on measurements and facts such as age of the home, square footage, number of bedrooms and bathrooms, size of garage — more like an algebraic equation than a literary critique.

While assessors are allotted a certain amount of discretion when it comes to determining the overall condition of properties — using poor, fair, average and good, and ranking quality of construction with A's, B's and C's — the most heavily weighted criteria are mostly objective and are plugged into a statistical computer model.

For instance, a bath fixture is typically worth about $510. A 320-square-foot deck adds $3,250 to the value. A fireplace: $3,855, according to 2014 figures for new construction.

Despite the many specific standards for calculations, the Department of Revenue fails to ensure assessors adhere to the approach.

Under state statutes, the department certifies assessors and has authority to revoke their certification for misconduct. State law requires the department to supervise assessors in the "performance of their duties" and to direct enforcement of the laws governing property tax assessments.

Yet the department doesn't acknowledge serious problems with fairness.

"I'm not up on any statistics," said Scott Shields, the director of assessment services, when asked about the chasing of sales. "I haven't heard anything about that."

Officials couldn't say when was the last time that they had revoked an assessor's certification. Records are kept for only 10 years.

"Revocation is a last resort," former department spokeswoman Laurel Patrick, now press secretary for Gov. Scott Walker, wrote in an email earlier this year.

"We don't jump from nothing to revocation. ... The standard for revocation is high."

The department doesn't have the authority to suspend an assessor's certification or impose other lighter punishment, she said.

In 2012, revenue officials received a complaint about Accurate's work in Germantown.

They followed up on the complaint — filed by a software engineer who works for a company affiliated with a competing assessment firm — and found "misconduct" among Accurate's assessors. Department officials cautioned the company's owners for changing values for individual properties following sales, noting that it is in "direct conflict" with rules.

Shields chose not to pursue revocation against Accurate's assessors, citing "no prior instances of this misconduct on file," according to a January 2014 letter to Germantown officials.

Jim Danielson, co-owner of Accurate, said the department's policies and state statutes that call for assessors to consider market value are in conflict and that his company's work did not constitute misconduct.

"Misconduct is me changing my buddy's assessment," Danielson said. "I'm trying to do this right. I'm not intentionally doing anything wrong."

He said state legislators and Department of Revenue officials need to clarify the proper method.

"If you don't change that one property you're violating the law: You're assessing over market value. If you do, you're violating uniformity," he said. "The manual and the laws need to be cleared up. They don't coincide."

Yet Accurate's assessors don't consistently follow that approach. Danielson said they make such adjustments only when property owners complain. So if a property sold for less than the assessed

value and the owner didn't push for a reduction, the value would stay as it was before the sale.

Department officials warned Danielson and his partner, Lee De Groot, to stop making individual changes based solely on market conditions unless they are revaluing the whole neighborhood. Officials promised to monitor Accurate's assessment work in Germantown in 2014.

Nobody in the Department of Revenue told the dozens of other communities that contract with Accurate of the problems found with the company's work.

Problems are longstanding

Concerns about property tax fairness might sound familiar to longtime Wisconsinites.

The Department of Revenue did a study 20 years ago on assessment practices and found Wisconsin's system was widely perceived as unfair by the public and was "in need of substantial change."

Then-secretary of the department, Mark Bugher, anticipated that proposed reforms would meet resistance but said uniformity was critical and the changes were necessary.

"The goal of tax equity is of such central importance that we believe (the reforms) should be vigorously pursued," Bugher wrote in a Dec. 30, 1994, letter to then-Gov. Tommy Thompson.

The study called for consolidating assessment practices, possibly to the county level, to "improve legitimacy by consistently applying more rigorous assessment standards."

"Wisconsin will have to make a choice between a relatively low-cost, higher decentralized assessment system, or a higher cost and more centralized model," authors of the study concluded. "We can't have it both ways."

But the study didn't spur major reforms.

Dale Knapp, research director with the Wisconsin Taxpayers Alliance, said overhauling the assessment system in Wisconsin is a subject that surfaces every 15 or 20 years but soon fizzles.

Knapp suspects one of the reasons it doesn't gain steam is that most residents don't realize the extent of the problems. His Madison-based nonprofit research organization fields calls every day

from taxpayers. While people complain about their property taxes, they don't understand how they work and are unaware of the fairness issues.

"The vast majority are just confused by the whole system," he said.

As it is, standardization is a long way off. While the Department of Revenue has attempted to improve oversight by encouraging municipalities to use standardized contracts and requiring additional and electronic reporting by assessors in the last few years, assessors statewide continue to struggle to get it right, and taxpayers are paying the price.

Consider R&R Assessing Services, which has 33 contracts across the state, including several in Oconto and Shawano counties. In its analysis of municipalities with 20 or more sales, the Journal Sentinel found the company's assessments — by the Department of Revenue's definition — were "poor" in three of four communities.

Same goes for Riglemon Appraisal Services, which has more than two dozen contracts in Adams, Sawyer, Wood and other counties. The company's assessmentsin nearly 75% of communities had a "poor" rating, according to the analysis.

Claude Riglemon, owner of the company, said he knows his numbers don't look good. He blamed the problem on low sales prices from the depressed housing market coupled with reluctance by village and town leaders to spend money on revaluations.

"They balk at the cost," he said. "Meanwhile this gap (in assessed values vs. market values) gets wider and wider."

Sixteen percent of Accurate's municipalities with 20 or more sales are ranked as having poor assessments.

The department's definition of "poor" stems from assessors having a wide difference between assessed values and sales prices. Essentially, the assessors are missing the mark and the assessments are not uniform. In those communities, 20% or more of the taxes are being paid by the wrong people. Some are paying more and others are paying less than their "fair share."

Robert Strauss, an economics professor at Carnegie Mellon University in Pittsburgh and a national expert on property tax assessments, said there is no reasonable excuse for an assessor to be off by 25% or more in either direction for residential properties.

"That's a 50% range," Strauss said. "He or she should be fired."

Strauss did a national study in 1998 that found Wisconsin had the 41st worst record in the country for uniformity.

Those in the field note that assessing a property is not like going to the grocery store and buying a bag of rice, where everybody pays the same price. Even condos with the exact same assets will sell at slightly different prices. For example, the owner may need to sell quickly; the buyer may be desperate.

But the goal is to be as close as possible to actual market value. An overall number within 10% of market value — above or below — is considered "good" under department standards.

Amie Trupke, a property tax attorney who represents municipalities across Wisconsin, said poor performance and lack of uniformity are concerns but that when considering appeals, the courts pay more attention to the individual property in question.

"I don't think it's black and white," said Trupke, of Madison-based Stafford Rosenbaum. "There is a conflict ... It's a gray area when there's a great shift in the market. There are legitimate arguments on both sides."

Trupke said property owners ought to regularly monitor the sales in their neighborhoods and that the burden is on them to object if they don't agree with their assessed values.

"If the neighbor is that concerned, the neighbor has the opportunity to challenge his assessment as well," she said.

'It's a little game we play'

Wauwatosa resident Anthony Aveni pays attention to the values in his neighborhood and sees himself as an activist.

"I'm aggravated and am constantly beating them back," he said of local officials collecting taxes.

Aveni complained about the $251,500 assessed value of his house on Church St. in 2012.

"It's just ridiculous," Aveni said of the assessment. "It's a mouse house. It's around 1,000 square feet and has no historical value."

Aveni said he called the assessor and argued for the value to be lowered.

"It's a little game we play," he said. "They over-assess, I go complain. I don't just roll over."

The assessor looked for justifiable reasons, tinkered with the basement square footage, Aveni said, and dropped the value 14% to $216,300.

"He may have found a mistake or just figured 'I have to shut him up,'" Aveni said of the assessor.

The cut saved Aveni $646 on his tax bill.

It was a maintenance year for Wauwatosa, and Aveni's neighbors' assessments remained unchanged.

Their tax bills went up.

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