



**DAN FEYEN**

**STATE SENATOR**

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To: The Senate Committee on Housing, Commerce and Trade  
From: Sen. Dan Feyen  
Re: Senate Bill 630

Hello members of the committee, thank you for taking the time to hear testimony on SB 630.

This bill updates and modernizes appraisal practices recommended by the Wisconsin Property Tax Assessment Manual to ensure fair and equal property tax assessments.

As amended, SB 630 essentially makes three changes regarding assessment practices in Wisconsin.

First, the bill defines actual or market rent as the most probable rent that a property should bring in a competitive and open market. This will reflect all conditions and restrictions of the lease agreement, including permitted uses, use restrictions, expense obligations, term, concessions, renewal and purchase options, and tenant improvements.

Second, this bill ensures that state statute controls assessing practices whenever there is an inconsistency or ambiguity between the Wisconsin Property Assessment Manual and a statute. This is the current practice, but it is not codified into law.

Lastly, beginning in January of 2023, SB 630 prohibits using list or asking rents to determine fair market value. This will help to ensure that any inflated asking or listing prices are not factoring into a property tax assessment.

Thank you again for taking the time to hold a public hearing on this bill.



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# ROBERT BROOKS

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

## Hearing Testimony

Senate Committee on Housing, Commerce, and Trade

Tuesday, December 7, 2021

10:00 A.M.

Chairman Jagler and members of the Senate Committee on Housing, Commerce and Trade, thank you for affording me the opportunity to testify in favor of Assembly Bill 610/Senate Bill 630, relating to: property tax assessment practices.

Wisconsin is in the midst of a growing workforce housing shortage. According to a 2019 report titled *Falling Behind: Addressing Wisconsin's Workforce Housing Shortage*, since 2012, Wisconsin has created seventy-five percent fewer lots and fifty-five percent fewer new homes than pre-recession averages.

This scarcity has been further compounded by a series of other factors. The National Association of Home Builders estimates that excessive and outdated regulations add an average of \$93,870 to the final price of a home – or increase the total by approximately 23.8 percent. Rents are also growing faster than incomes, and the cost of construction materials is increasing.

As a result, Wisconsin's median age for first-time home buyers has risen to thirty-three. The state is also running a migration deficit with individuals aged twenty to twenty-four and has a lower homeownership rate for households ages twenty-five to thirty-four and thirty-five to forty-four than all neighboring states, except Illinois.

These bills are part of a larger legislative package to provide safer, more affordable housing options across the state.

Assembly Bill 610/Senate Bill 630 updates state appraisal practices to ensure fair and equal property assessments. The goal of the bill was to make clear that assessments must be based on actual sales prices and rents, rather than possible or speculative numbers. The bill prohibited assessors from considering data such as projected rents mortgage or bank appraisals, or value trends. In response to concerns raised by several groups, the bill was significantly amended in the Assembly to narrow the types of information assessors could not consider in determining the value of a property.

Despite the amendment, some assessors claimed the bill would eliminate the income approach to value and, as a result increase property taxes for homeowners, farmers, and others. Because this was not clearly the intent, Senator Feyen and I intended to amend the bill even further to address the concerns raised by the assessors. We introduced the amendment on Monday that



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# ROBERT BROOKS

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

deletes the provision that assessors raised concerns about, which was a prohibition on considering “future of anticipated benefits.”

Now, with these amendments, the bill would do three things:

1. Prohibit the use of asking or list prices, or asking rents to determine the assessed value of a property.
2. Codifies the definition of “actual” or “market rents” from the *Wisconsin Property Assessment Manual* to clear up some of the confusion regarding how income-generating properties are to be assessed.
3. Clarify that when an inconsistency or ambiguity exists between the *Wisconsin Property Assessment Manual* and state statutes, statutes take precedent.

Assembly Bill 610, as amended, would modify Wis. Stat. 70.32 while simultaneously updating and modernizing appraisal practices recommended by the *Wisconsin Property Tax Assessment Manual* to help ensure appraisals are faire, accurate, and uniform.

As a realtor for more than twenty-five years, I have witnessed, first-hand, the devastating impact of Wisconsin’s affordable housing shortage on our local communities. A lack of affordable workforce housing units has made Wisconsin an unattractive destination for job seekers and businesses

I am happy to answer any questions you might have.

MICHELLE ALBA

WAAO, CITY OF MADISON

Statute: 70.32(1p) Beginning with the property tax assessments as of January 1, 2023, the assessor may not use list or asking prices (*for individual property*), or list or asking rents for (*individual property*), when determining the value of real property (*of an individual property*).

- List and asking prices or rent include salient data points when analyzing a market. This data has a high efficacy value as it is sourced from the property owners and is public facing. If they are eliminated from consideration, this diminishing the accuracy of the overall analysis. (insert medical analogy)
- Under the mandated guidance for private appraisers (Uniform Standards of Professional Appraisal Practice), this data must be considered for private appraisals. If private appraisals, which are used for financing, and assessments diverge significantly...we will have issues with sales ratios and the equalization process. This can impact the levy and state aid formulas. Assessments will be out of whack from sales prices and that will create chaos in the Department of Revenue's annual analysis of assessment performance compared to sales prices from the municipality. (include language from USPAP if time)
- Furthermore, the language of this statute presumes that the market will be in a state of growth into perpetuity. This language will harm property owners in a down market. And, it will make complicate determining whether a sales is an arm's length transaction that conforms to market under the Markarian hierarchy. I would like to review a few of the excerpts relating to asking or list prices and rent:

WPAM

- 9-21 (REAP PROPERTY VALUATION): RETR – data is used to quantify whether a sale conforms to market (arm's length transaction)\*\* necessary information to identify a market that is used as the metric by which to measure whether a sale conforms (mandated second step in the process to determine whether a sale is truly arm's length)
- 10-2 (ASSESSMENT SALES RATIO ANALYSIS): In a declining market, factors such as higher interest rates, large supply of properties for sale, economic conditions and lower asking prices may have an impact on the values of properties. The assessor should be in touch with what is occurring in the municipality they are assessing.

\*\*if listing or asking prices are under market, assessors would not be able to consider them under the current language.

- 22-111 (LEGAL DECISIONS AND OPINIONS): APV North America, Inc. v Wisconsin Department of Revenue, Wisconsin Tax Appeal Commission, Docket Number 01-M-220, December 13, 2002. The Tax Appeals Commission granted the Department of Revenue's (DOR) motion and dismissed the petition for review. The Commission lacks matter jurisdiction over the petition because North America, Inc. (APV) was not aggrieved by the action of the State Board of Assessors. They requested and received a reduced assessment. APV owns a manufacturing property in Lake Mills. The DOR assessment on the property was \$6,889,700.

*APV filed an objection with the State Board of Assessors stating the property should be valued at \$6,000,000 based on the asking price of the property. At the time, APV was negotiating the sale of the property. The Board of Assessors issued its Notice of Determination for \$6,000,000 on October 16, 2001. APV and the buyer agreed to a price of \$4,400,000 after receiving the Notice of Determination but before filing the petition for review. APV filed a petition for review with the Commission to further reduce the assessment to \$4,400,000. On January 4, 2002, the property sold for \$4,400,000.*

\*\*case law example of when this statute would create a problem for the property owner

inally, if this statute were to pass with the current language, there would be immediate conflict and litigation over the two conflicting terms:

In determining the value, if there is an inconsistency or ambiguity between the Wisconsin property assessment manual provided under s. 73.03 (2a) and a statute, the statute shall control the practices of the assessor. *For purposes of this subsection, "actual or market rent" means the most probable rent that a property should bring in a competitive and open market reflecting all conditions and restrictions of the lease agreement, including permitted uses, use restrictions, expense obligations, term, concessions, renewal and purchase options, and tenant improvements.*

As discussed above, a crucial piece of data to determine a market is list or asking prices. Without the ability to consider this information, the definition of "actual or market rent" is meaningless as we would be unable to fully determine the market. This provides an inherent and actionable conflict between the two clauses (intro and 1p). While I am sure attorneys would be pleased that litigation will be a guaranteed result of this bill, municipalities including towns and villages will be harmed due to the cost of litigation and impact to evaluation of sale prices in an arm's length transaction analysis that will have cascading impact to the equalization process.



**To:** Members, Senate Committee on Housing, Commerce and Trade

**From:** Cori Lamont, Senior Director of Legal and Public Affairs  
Tom Larson, Executive Vice President

**Date:** December 7, 2021

**RE:** SB 630/AB 610 (amended) – Prohibiting Certain Property Tax Assessment

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The Wisconsin REALTORS® Association (WRA) supports SB 630/AB 610 (amended), legislation creating uniformity and consistency in the assessment of Wisconsin real property.

**Background**

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 ....” This language, known as the “uniformity clause” to prevent state and local lawmakers from giving preferential treatment to some property owners over others. As stated by the Wisconsin Supreme Court, the purpose of the uniformity clause is “to protect the citizen against unequal, and consequently unjust taxation.” See *Weeks v. Milwaukee*, 10 Wis. 186, 242 (1860).

The assessor’s opinion of value is given tremendous deference by both the board of review and a reviewing court on appeal. And since the state’s current framework presumes the assessor’s opinion of value is correct, the property owner is challenged with the “burden of proof” to present significant evidence showing the assessor was incorrect.

The Wisconsin Department of Revenue (DOR) creates the Wisconsin Property Assessment Manual (WPAM). The WPAM is a “guide for uniform property assessment throughout the State. See <https://www.revenue.wi.gov/documents/wpam21.pdf>. In addition, Wis. Stat. §70.32(1) mandates assessors value real property as specified in the WPAM. The property assessment system utilized by assessors must maintain uniformity, integrity and avoid opportunity for assessors to individually create policy and interpretation.

**SB 630/AB 610 (amended)**

Creates uniformity and consistency in the assessment of Wisconsin real property.

- **Statute controls** - When there is an inconsistency or ambiguity between the Wisconsin Department of Revenue (DOR) creates the WPAM and statute, the statute shall control assessor practices. See *Metropolitan Holding Co. v. Bd. of Review of City of Milwaukee*, 173 Wis.2d 626, 633, 495 N.W.2d 34 (1993).
- **Defines “actual or market rent”** – Inserts into statute the definition of actual or market rent consistent with the definition in the WPAM.
- **Disallows reliance on listing or asking prices** - Prohibits assessors from determining the assessed value of real estate based upon projected numbers. Asking prices represent desired, future value or rents of a property and should not be considered in determining value.

SB 630/AB 610 (amended) proposes to eliminate the repeated issues relating to certain practices implemented by assessors throughout the state that are inconsistent with the WPAM. Practices that increase the cost of property ownership, further exacerbating the lack of affordability of Wisconsin property.

The WRA respectfully requests your support for SB 630/AB 610 (amended).



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To: Senate Committee on Housing, Commerce, and Trade  
From: Curt Witynski, J.D., Deputy Director, League of Wisconsin Municipalities  
Date: December 7, 2021  
Re: SB 630/AB 610, Prohibiting Certain Property Tax Assessment Practices

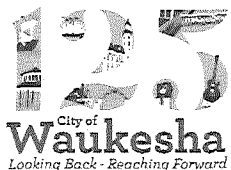
The League of Wisconsin Municipalities opposes SB 630, changing current law governing how assessors determine the fair market value of property for property tax purposes.

We acknowledge and appreciate that the authors have offered amendments significantly modifying the original bill and addressing many of the issues we raised in the Assembly hearing on AB 610. Nevertheless, we continue to have concerns about how the remaining changes to the assessment process will be interpreted by the courts. It is uncertain what the impacts of these changes may have on the assessment process down the road. For example, the bill creates a definition of “actual or market rent” and inserts it into the Wis. Stat. sec. 70.32 valuation hierarchy after Tier 1 and Tier 2 and just before Tier 3. However, the term “Actual rent” *is not* defined by the Appraisal Institute or by the International Association of Assessing Officers (IAAO). “Contract rent” *is* defined by the Appraisal Institute or by IAAO and states simply: “The actual rental income specified in a lease”. The new terminology “actual or market rent” is confusing and disjointed.

Given this, and that we remain unclear as to the problem this legislation is attempting to solve, the League stands with the Wisconsin Association of Assessing Officers and remains opposed to the bill even if amended as proposed.

We urge the committee to vote against recommending passage of SB 630. Thanks for considering our comments.





## OFFICE OF THE CITY ASSESSOR

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Samuel A. Walker, Assessor  
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Tuesday, November 2, 2021

Re: AB 610 & SB 630

The City of Waukesha opposes the measures taken in AB 610 and SB 630. The Assessor is responsible for fairly and equitably valuing all real estate within their jurisdiction with the most accurate information available to them. AB 610/SB 630 puts a limit on the information that the Assessor can request and prohibits the use of that information to determine market value.

All appraisals and assessments are an opinion of value (the best estimate an Assessor, realtor, or appraiser can develop.) These estimates are best made with accurate and ample data. AB 610/SB 630 would tie the Assessors hands. Furthermore, since Assessors in Wisconsin are not granted access to the MLS system realtors use to store property data, we rely on the input from property owners to gather interior information on a property after a sale occurs. That data is valuable and only available to realtors and appraisers, which makes appraisals highly valuable to Assessors.

Appraisals issued by a bank or mortgage company can be a valuable source of information to an Assessor. It gives Assessors detailed information on a property that may not be known, allowing greater accuracy in valuing said property. Taxpayers use appraisals for appeals when they feel their value is incorrect. This would tie the hands of the Assessor even further because during an informal appeal hearing, the Assessor would not be able to use the appraisal to determine market value. It would have to be sent to the Board of Review, circumventing the Assessor causing wasted time for the BOR, Assessor, and taxpayer.

The use of rents (projected, listed, or asking) is imperative to determine a fair market value on a commercial property. This method is used by Assessors and appraisers alike to determine the value based on the income stream a property generates. The income approach to value is one of the three approaches Assessors and appraisers use to determine market value. This would all but eliminate one method, making commercial valuation more difficult.

The prohibition on using mass appraisal in any jurisdiction would cause more harm than good. Most any Assessor in the country uses mass appraisal techniques to value their area. It is almost impossible to individually assess each property. Standards issued by the IAAO are used by Assessors to ensure that the values they place on properties using mass appraisal are done equitably and fall within predefined statistical testing standards.

The property tax system is vital to local government. The foundation of the property tax is the property valuations. Without all the information available on a property, the property valuations are more difficult to determine. Placing these measures into place could result in inaccurate property values due to the lack of



information, causing more appeals and an unstable tax base. We strongly encourage the Assembly and the Senate to reconsider and strike down AB 610 and SB 630.

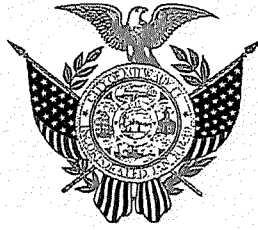
If the goal for the Assessors in the State of Wisconsin is to establish fair market value, then it is only logical to give Assessors access to this data and the ability to use all pertinent data to make these values as consistent, uniform, and equitable as possible.

Thank you kindly for your consideration.

IAAO Standards on Mass Appraisal: <https://www.iaao.org/media/standards/StandardOnMassAppraisal.pdf>

IAAO Standards on Ratio Studies: <https://www.iaao.org/media/standards/Standard on Ratio Studies.pdf>





CITY OF MILWAUKEE

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**City of Milwaukee Testimony on AB 610-SB 630  
December 7, 2021  
Senate Committee on Housing, Commerce and Trade**

Thank you to the Chair and to the committee for the opportunity to testify on AB 610/SB 630, relating to prohibiting certain property tax assessment practices. The City of Milwaukee appreciates the improvements that have been made to the amended bill, however we still have some concerns about the remaining prohibition on using list and asking prices or rents to determine fair market value.

Prohibition on using list and asking prices or rents to determine fair market value:

In Wisconsin, the best evidence of fair market value is a sale of the subject or sales of comparable properties. According to acceptable appraisal practices, sales must be recent. However, sometimes there are no sales—just list or asking prices. In Milwaukee, we are fortunate to have a number of sales data so this bill may not impact us as greatly as it might impact a smaller community that does not have as robust sales data. When that is the case, both private appraisers and assessors will turn to list or asking prices. They would adjust the list or asking prices based on assumptions for what the sale price would be; however, it is a starting point for both private appraisers and assessors. If they can't do that, it seriously impacts the ability to value property, and in fact, is contrary to nationally accepted appraisal standards and techniques. We never solely use list or asking prices as the basis to determine fair market value and to do so would go against accepted appraisal standards.

Further, when valuing commercial properties, private appraisers and assessors may only know a building's asking rent. They would adjust that asking rent based on assumptions for what the final rent would be. If the list or asking prices cannot be used, then the bill should require the owner of the property to provide the actual market data. Currently, there is no requirement to do so. If list or asking prices are prohibited, then the property owner should have to provide the actual rent so assessments can be done fairly and accurately, and not result in a further shift of the tax burden to the residential property owner.

Thank you for the consideration of these concerns.

**For more information, please contact:**

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City of Milwaukee

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MILWAUKEE