



WISCONSIN LEGISLATIVE COUNCIL

MEETING MINUTES

STUDY COMMITTEE ON PROPERTY TAX ASSESSMENT PRACTICES

Room 412 East
State Capitol
Madison, WI

August 7, 2018
10:00 a.m. – 3:15 p.m.

Call to Order and Roll Call

Chair Olsen called the meeting to order. The roll was called, and a quorum was present.

COMMITTEE MEMBERS PRESENT: Chair Luther Olsen; Reps. Dave Considine and Rick Gundrum; Sens. Robert Cowles and Janis Ringhand; and Public Members Ed Catani, Jeff Hoffman, Don Millis, Jeff Nooyen, Amy Seibel, and Rocco Vita.

COUNCIL STAFF PRESENT: Terry C. Anderson, Director; Jessica Karls-Ruplinger, Deputy Director; Rachel Letzing, Principal Attorney; Scott Grosz, Principal Attorney; Anna Henning, Senior Staff Attorney; and Tracey Young, Senior Administrative Assistant.

APPEARANCES: Terry C. Anderson, Director, Legislative Council Staff; Senator Roger Roth, Co-Chair, Joint Legislative Council; Nicole Kuehl, Legislative Liaison, and Scott Shields, Director, Office of Technical and Assessment Services, Department of Revenue; Shannon Krause, Assessor, City of Wauwatosa; Tim Michalak, Mayor, City of Hartford and Washington County Supervisor; Brian Grossman, Senior Manager, Property Tax, Walgreen Company; Robert Vujea, Property Tax Manager, Meijer, Inc.

Opening Remarks

Chair Olsen welcomed committee members and introduced Senator Roger Roth, Co-Chair, Joint Legislative Council, and Terry C. Anderson, Director, Legislative Council staff. Senator Roth shared his thoughts regarding the importance of the topic and encouraged members to come to the discussion with open minds. Mr. Anderson thanked members for their service and offered the Legislative Council staff as a resource throughout the committee's deliberations.

Introductions and Study Committee Overview

At Chair Olsen's invitation, committee members introduced themselves and summarized their backgrounds.

Presentation by Legislative Council Staff

Scott Grosz, Principal Attorney, and Anna Henning, Senior Staff Attorney, Legislative Council staff, summarized the material in Staff Brief 2018-04, *Study Committee on Property Tax Assessment Practices*. Questions and discussion followed the presentation. Senator Cowles requested definitions of technical terms that are likely to arise in the committee's work.

Presentations by Invited Speakers

Nicole Kuehl, Legislative Liaison, and Scott Shields, Director, Office of Technical and Assessment Services, Department of Revenue

Ms. Kuehl and Mr. Shields provided an overview regarding property tax assessment in Wisconsin, including background regarding property tax administration, the Department of Revenue (DOR)'s role, the Wisconsin Property Assessment Manual (WPAM), and assessor certification. They then answered committee members' questions regarding whether the state's approach to assessment differs for different categories of property; whether the state's tax assessment system has been audited; where Wisconsin's taxation levels rank compared with other states'; assessor training, certification, and evaluation; updates to the WPAM; and whether DOR recommends any changes to current law. Ms. Kuehl agreed to follow up with the committee with information regarding any past audits and any recommendations for changes to current law.

Tim Michalak, Mayor, City of Hartford, and Washington County Supervisor

Mr. Michalak described how changes to commercial tax assessments have affected the City of Hartford and surrounding areas in Washington County. He noted that a large portion of the city's budget is allocated to police services, which are disproportionately utilized at certain large retail stores.

During the subsequent question and answer period and discussion, Public Member Millis suggested that the committee might benefit from seeing DOR data regarding the share of the tax burden by property type.

Shannon Krause, Assessor, City of Wauwatosa

Ms. Krause described the process she uses for property tax assessment and the appeals process. She noted that her preference is to hear about concerns early in the process and work with taxpayers to resolve issues. She said that municipalities have been defending assessments in circuit court, which is very costly, and that many municipalities choose to concede to a lower assessment to avoid the expense of litigation. She distributed a list of claims that have been filed against the City of Wauwatosa during the past several years. She noted that some of the claims have been settled, and some cases are closed.

Ms. Krause provided an example of a situation in which land was purchased, followed by demolition, remediation, and construction of a new retail store. Relying on comparisons with sales of vacant properties, the taxpayer in that example estimated the market value of the property at less than the amount paid for land and remediation. She also provided several examples in which commercial properties had sold at an amount significantly above the assessed value.

Committee members asked questions regarding impacts on tax incremental financing; the process for revaluation; the role of data collected regarding commercial income and expenses; how to account for downward swings in the retail market; and litigation costs.

Brian Grossman, Senior Manager, Property Tax, Walgreen Company

Mr. Grossman emphasized Walgreen Company's contributions in Wisconsin and noted that challenging tax assessments is a legal right, not a loophole. He stated that assessors should determine property value, not business value. He described Walgreen's build-to-suit model and explained that Walgreen Company is not a party to the sale in such transactions. He noted the importance of *The Appraisal of Real Estate*, which he said states that a lease never affects fee simple value. He asserted that an assessment that incorporates the value of an above-market lease double taxes income, and that sale-leasebacks should not be considered arms-length transactions.

In response to committee members' questions, Mr. Grossman noted that most states utilize a "market rent" approach to income-based assessment, and legislation considered this session would have converted Wisconsin to a "contract-rent" approach. He said it makes sense that properties with Walgreen's stores would sell for more than the property's value, because the investor is purchasing an asset akin to a long-term bond with a credit-worthy, income-producing business. Members also asked whether business value can be exchanged for real estate value under Section 1031 of the Internal Revenue Code.

Robert Vujea, Property Tax Manager, Meijer, Inc.

Mr. Vujea described Meijer, Inc.'s investment and contributions in Wisconsin. He stated that assessments should be based on the value of the bricks and mortar, and a structure's occupant should have no bearing on value. He stated that certain features of Meijer, Inc.'s stores are only valuable to Meijer, Inc., and that if a market segment is too narrowly drawn, it undercuts the sales comparison approach to property tax assessment. He characterized the phrase "dark stores" as misrepresenting the sales comparison approach. Finally, he urged the

committee to: (1) focus on property value; (2) not eliminate all deed-restricted properties as potential points of comparison; and (3) take a property's functional obsolescence into account.

Following his presentation, Mr. Vujea responded to members' questions regarding commercial real estate appraisal and Meijer, Inc.'s business model.

Committee Discussion, Suggestions for Future Agenda Items, and Information Requests

After the final presentation, Chair Olsen invited committee members to suggest topics for future agendas or research. Mr. Grosz mentioned that Legislative Council staff had already noted requests for a glossary of terms and several other items.

Mr. Millis suggested that the committee could benefit from examples of build-to-suit, lease-saleback transactions outside of the retail context, and from discussing training requirements for assessors.

Chair Olsen inquired whether the committee should discuss whether complicated commercial assessments are appropriately handled at the municipal level.

Mr. Hoffman suggested that real estate analytics data could be helpful. He also suggested that the committee might consider the particular challenges posed by assessing commercial properties involving triple-net leases, the impact of limitations on Section 1031 exchanges, and whether the current allocation of the overall statewide tax burden is the right blend, with a goal of addressing the tension between business value in use versus value on the open market and discovering any alternatives (to burdening tenant taxpayers) to help local communities.

Ms. Siebel noted the difficulty for local assessors of assessing commercial property and defending those assessments in court after the fact. She suggested the committee might consider ways that various taxing jurisdictions could share in litigation expenses. She also suggested that the committee could benefit from more information regarding special purpose properties.

Mr. Nooyen and Senator Ringhand expressed an interest in hearing additional testimony from municipal stakeholders.

Plans for Future Meetings

Chair Olsen noted the committee's future meeting dates:

- September 6, 2018.
- October 9, 2018.
- November 28, 2018.

Other Business

There was no other business brought before the committee.

Adjournment

The committee adjourned at 3:15 p.m.

SG:AH:ty