



CITY OF WAUWATOSA
7725 WEST NORTH AVENUE
WAUWATOSA, WI 53213
Telephone: (414) 479-8917
Fax: (414) 479-8989
<http://www.wauwatosa.net>

City of Wauwatosa

Board of Review Rules and Procedures

Rule 1 Authority

The Board of Review shall operate under the laws set forth in Chapter 70 of the Wisconsin Statutes, relevant published decisions of the Wisconsin Courts, the instructions contained in the Wisconsin Property Assessment Manual for Wisconsin Assessors, Guide of Board of Review Members published by the Wisconsin Department of Revenue and these Board of Review rules and procedures. All the above may be amended from time to time.

Rule 2 Board of Review

- (A) Membership. The Board of Review shall consist of seven (7) residents of the City of Wauwatosa. The members shall be appointed by the Mayor and confirmed by the Common Council. The terms shall be five (5) years, staggered.
- (B) First Meeting. The Board of Review shall meet annually during a 45-day period starting the 4th Monday of April, no sooner than seven days after the last day which the assessment roll is open for examination under Section 70.45 of the Wisconsin Statutes. At its first meeting, the Board shall comply with the requirements of Section 70.47(3) (a) of the Wisconsin Statutes. At this first meeting, the Board will also elect a Chairman and a Vice-Chairman. These officers may succeed themselves.
- (C) Duties at First Meeting. At its first meeting, the Board shall comply with the requirements of Wis. Stat. 70.47(3)(a) as follows:
 - 1) Shall receive the assessment roll and sworn statements of the clerk.
 - 2) Shall be in session for at least two hours for taxpayers to appear and examine the assessment roll and other assessment data.
 - 3) Shall schedule for hearing or hold in abeyance until another Board hearing, each written objection that has been accepted as complete according to the rules contained herein, during the first two hours of the meeting.
 - 4) Shall grant a waiver of the 48-hour notice of an intent to file a written or oral objection if a property owner who does not meet the notice

requirements appears before the Board during the first two hours of the meeting, shows good cause for failure to meet the 48-hour notice requirement, and files a complete written objection.

- 5) May hear any written objections if the Board gave notice of the hearing to the property owner and the assessor at least 48 hours before the beginning of the scheduled meeting or if both the property owner and the assessor waive the 48-hour notice requirement.
 - 6) For each properly filed objection that the Board receives and schedules during its first meeting, but does not hear at the first meeting, the Board shall notify each objector and the assessor, at least 48 hours before an objection is to be heard, of the time of that hearing. If, during any meeting, the Board determines that it cannot hear some of the written objections at the time scheduled for them, the Board shall create a new schedule, and it shall notify each objector who has been rescheduled at least 48 hours before the objection is to be heard.
 - 7) The Board, in open session, at the first meeting shall review all objections the Assessor believes may not comply with the requirements of the Wisconsin Statutes. The Board shall inform the property owner of any possible dismissal and the reason(s) for any dismissal and schedule a procedural hearing for the Assessor and objector to be heard. The Board shall hold a procedural hearing, after at least 48 hours' notice is given to the objector, where the Board shall decide if the dismissal of the objection is warranted. The Board may not hold a valuation hearing on the merits of any objection if first dismissed by the Board for non-compliance with Wisconsin Statutes.
- (D) Denial of Hearing. Upon request for a valuation hearing, the Board shall either deny or grant a request for a valuation hearing or approve a waiver request under Rule 12. The Board's determination to deny a valuation hearing is not a ruling or hearing on whether to sustain the Assessor's determination of value. A determination by the Board to deny a request for a hearing or waiver must incorporate the phrase "denial of hearing" or a similar phrase having the same meaning. The Clerk must send notification of a hearing denial to the property owner and/or agent.

Rule 3 Duties and Authority of Officers

- (A) Chairperson. The Chairperson shall preside over all meetings of the Board. In the absence of the Chairperson, the Vice-Chairperson shall assume the duties of the Chairperson.
- (B) Rulings. During the hearing, the Chairperson shall make all rulings regarding procedural matters and the admission or exclusion of evidence. If circumstances prove necessary, the Chairperson will have the authority to make rulings regarding the procedural matters and the admission or exclusion of evidence which may arise at a time when the Board is not in session.

- (C) Clerk. The City Clerk or the Clerk's designee shall act as Clerk for the Board. The duties of the Clerk shall be to assist the Board in the performance of its duties by keeping accurate records of its proceedings, safeguarding the records, giving notices of meetings and adjournments, and notifying property owners of Board determinations.

Rule 4 Quorum

A majority of the members of the Board present shall constitute a quorum, except that two members may hold hearings of evidence. A majority vote of the quorum shall establish the determination of the Board. In the event there is a tie vote, the Assessor's valuation will be sustained. A Board member may not be counted in determining a quorum and may not vote concerning any determination unless the member:

- Attended the hearing when the evidence was presented, or
- Received the transcript of the hearing no less than five days prior to the meeting to make a decision and read the transcript beforehand, or
- Received a recording of the Board hearing and evidence not less than five days prior to the meeting to make a decision and listened to the recording beforehand.

Rule 5 Board's Function and Jurisdiction

- (A) Board Duties. The Board shall presume that the Assessor's valuation is correct. That presumption may be rebutted by a sufficient showing that the valuation is incorrect. After weighing the evidence before it, the Board shall determine whether the Assessor's assessment is correct. If the assessment is too high or too low, the Board shall raise or lower the assessment accordingly and shall state on the record the correct assessment and that the assessment is reasonable in light of all of the relevant evidence that the Board received. The Board's function is not one of valuation, but of deciding on the validity of the facts presented before it. The Board is a quasi-judicial body whose duty is to hear sworn, oral testimony regarding assessed values. Based only on that testimony and evidence, the Board must decide whether an individual has proven the Assessor's assessment incorrect. If the Assessor's valuation has not been proven incorrect, it must be upheld.
- (B) Manufacturing Assessments. The Board has no jurisdiction in deciding the valuation of any property assessed by the Wisconsin Department of Revenue.
- (C) Property Tax Exemptions. The Board has no jurisdiction to grant or deny property exemptions or to consider allegations that claims for exemption from property taxes have been improperly denied.

- (D) Authoritative Powers. The Board has no authoritative powers except for the promulgation of these rules and procedures which have been drafted in accordance with the authority granted to the Board under the Wisconsin Statutes
-

Rule 6 Location of Assessment Roll

The local assessment roll or a copy thereof shall be made available for inspection by all interested parties during regular office hours in the Assessor's Office and the City Clerk's Office. The assessment roll to which the Assessor's affidavit is attached shall be available for inspection by the Board during the first two hours of the first meeting of the Board of Review for the tax year.

Rule 7 Objection Filing

- (A) Objection Forms. An objection to assessment of real property shall be in writing and made on form PA-115A as prescribed by the City Assessor and approved by the Wisconsin Department of Revenue. An objection to an assessment of personal property shall be in writing and made on form PA-115B, as prescribed by the City Assessor and approved by the Wisconsin Department of Revenue.
- Objection forms shall be provided by the City Clerk's office and are available online at www.revenue.wi.gov/forms.
 - A separate objection form shall be completed for each property assessment or personal property account being appealed.
- (B) Who may file. Objection to an assessment may be made by the owner of the property or the owner's agent. If the objection is made by an agent, written authorization by completing Wisconsin Department of Revenue Agent Authorization form PA-105, and signed by the owner, must be filed with the objection form.
1. 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 no later than 7 days before the first meeting of the Board of Review 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. The municipality or county shall provide by ordinance for the confidentiality of information about income and expenses that is provided to the Assessor under this paragraph and shall provide exceptions for persons using the information in the discharge of duties imposed by law or of the duties of their office or by order of a court. The information that is provided under this paragraph is not subject to the right of inspection and copying under s. [19.35 \(1\)](#) unless a court

determines before the first meeting of the Board of Review that the information is inaccurate.

(C) **Signature and Verification.** The objection shall be in writing and signed by the owner or a duly authorized agent. If the owner is a corporation, the objection must be signed by an officer of the corporation indicating the position (office) held. If a tenant of a leased property files an objection form, tenant must attach to the objection form proof that the tenant is authorized to file an objection on behalf of the property owner for the entire parcel or the objection will be rejected.

(D) **Completion of the Objection to Real Property Assessment.** The objection form must be completed in its entirety and filed with the clerk and a copy given to the Assessor. The form must contain contact information including current e-mail and phone numbers for the owner and agent, if applicable. To ensure that the Board of Review has the necessary information to perform its statutory duties properly, no objection form will be accepted as complete if the following requirements are not met:

(1) The objection form must contain an Opinion of Value which is more than just a conclusion of value, and must provide supporting documentation. In addition to responding to all of the items requested on the objection form, Wisconsin statute 70.47 (7) (ae) must also be satisfied requiring the persons' objection to specify the information that the objector used to arrive at their estimate of the market value of the property. This statute is satisfied if the objector adequately completes Section 3 of the objection form (PA-115A or PA-115B). This section is satisfied only if the objector states with specificity the reasons why the assessment is too high or too low and identifies the information that the objector used in support of their opinion of valuation. Simply stating that the assessment exceeds market value, and nothing more, is insufficient.

(2) A statement that the assessment violates the Uniformity Clause of the Wisconsin Constitution but provides nothing more than a conclusory statement will be rejected as insufficient and incomplete. Any alleged uniformity violation must include an explanation of the basis for the uniformity violation and identification of the properties the objector claims has not been assessed uniformly with the objector's property.

(3) For any rule requiring a property owner or the property owner's agent to file a document with the City of Wauwatosa departments, "file" means to submit in person, by e-mail or by U.S. mail. Filings are timely if received by the City Hall's close of business day which is 4:30 P.M., central time. Any document filed after that time is considered to be filed the following day.

(4) For any documentation required, it is not sufficient to allege the documentation was previously provided to the assessor. As the Board of Review proceedings are quasi-judicial, any required documentation is evidence and

must be provided as an attachment with the objection form.

(5) Completing form PA-115A with inaccurate information will result in the form being deemed incomplete.

(6) The minimum information required to be responsive to Section 4 of form PA-115A includes, but is not limited to:

- Fully completed questions with “yes” or “no” selected;
- For any question which “yes” is selected, information must be provided. “NA” or “----” is not a complete answer;
- If any changes have been made, a description of the changes must be provided. It is not enough to reference building inspection records of the records of any other City department(s); and
- If the property has recently been sold or mortgaged, any appraisals must be provided, or a sworn statement that there was no appraisal must be provided.

(E) Failure Fully Complete Election Form. If the filed objection form PA-115A and, if applicable, the agent authorization form PA-105, are determined to be incomplete, the assessment objection shall be deemed invalid and shall be dismissed. The Board shall hold a procedural hearing, after at least 48 hours’ notice is given to the objector and Assessor, where the Board will decide if the objection form or agent authorization is incomplete or inaccurate as to any item, and the dismissal of the objection is warranted.

(F) Late Filed Notice of Intent – Good Cause. The Board shall grant a waiver of the 48 hour notice of intent to file a written or oral objection provided that the objector:

- (1) Appears before the Board during the first two hours of the first meeting of the Board; and
- (2) Provides the Board of Review with proof of “extraordinary” circumstances for failure to comply with the statutory 48 hour notice requirement *and* failure to appear during the first two hours of the Board’s first scheduled meeting. For this purpose, “extraordinary” circumstance shall be determined on a case by case basis and must rise to the level of being very unusual, highly remarkable, and/or a non-recurring circumstance; and
- (3) Files a fully completed and compliant written objection form PA-115A.

For this purpose, “good cause” shall mean a sufficient reason for the untimely filing determined on a case by case basis by the Board. To determine if “good cause” exists, the Board may consider the following factors:

- 1) The reason for the taxpayer’s delay;

- 2) The extent to which the objector undertook any effort to comply with the Board of Review filing deadlines and other Board rules and State statutes;
- 3) The taxpayer's or representative's professional experience in filing objections before any Board of Review; and
- 4) The objector's prior experience with this Board and the objector's previous disregard, if any, for the Board of Review procedures.

(G) Late Filed Objection – Extraordinary Circumstances.

The Board of Review may waive all notice requirements and hear a property assessment objection provided that:

- (1) The objector files a fully completed and compliant written objection form;
- (2) Provides evidence of “extraordinary circumstances”;
- (3) The objector personally appears before the Board to request a waiver of the notice requirements at any time up to the end of the fifth day of the session or up to the end of the final session if the Board of Review is in session less than five days. End of session is determined by the schedule of the Board of Review.

For this purpose, evidence of “extraordinary circumstances” shall be determined on a case by case basis and must rise to the level of being very unusual, or highly remarkable or non-recurring circumstances that are more severe than circumstances to justify “good cause”.

(H) Property Owner Must Allow Exterior Property Inspection. No person shall be allowed to appear before the Board, to testify to the Board by telephone, or to contest the amount of any assessment of real or personal property, if the owner has refused a reasonable written request by certified mail of the Assessor to enter onto the property to conduct an exterior view of the property being assessed.

(I) Confidentiality of Income and Expense Data. Except as otherwise provided in Section 70.47 (7) (af) of the Wisconsin Statutes, information about the income and expenses that is provided to the Assessor or the Board of Review shall be treated as confidential and will not be filed with the property records or exposed to public inspection. In the event any such confidential information is presented during a valuation hearing, the objector may request that the valuation hearing not be publicly broadcasted on any live medium. Any such hearing shall be open to the public for in-person participation.

(J) Failure to Receive Notice. Failure to receive a notice of a changed assessment is not sufficient reason to accept a late objection.

(L) Objections Must Be on Aggregate Value. Persons who own land and improvements to that land may object to the aggregate value of the property, but no

person who owns an improved property may object to only the valuation of the land or the valuation of the improvements to that land independently.

(M) Amount of Increase Not Relevant. The amount of tax or the amount of an increase in assessed value shall not constitute facts sufficient to warrant a change in assessed value.

Rule 8 Procedure for Sworn Telephone Testimony Requests

- (A) The Board shall hear upon oath all persons who are eligible to appear before it in relation to the assessment.
- (B) The Board **shall** hear upon oath, by telephone, all ill or disabled persons who present to the Board a letter from a physician, osteopath, physician assistant, as defined in Wis. Stat. 448.01 (6), or advanced practice nurse prescriber certified under Wis. Stat. 441.16 (2) that confirms their illness or disability
- (C) The Board **shall** hear upon oath, by Webex, all ill or disabled persons who present to the Board a letter from a physician, osteopath, physician assistant, as defined in Wis. Stat. 448.01(6), or advanced practice nurse prescriber certified under Wis. Stat. 446.26(2) that confirms their disability or illness.
- (D) At the request of the property owner or the property owner's representative, the Board **may** postpone and reschedule a hearing under this subsection, but may not postpone and reschedule a hearing more than once during the same tax year for the same property.
- (E) Before the Board of Review can consider any requests to testify by telephone under oath all statutory requirements for filing an objection under Rule 7 must be met first.

Rule 9 Scheduling

- (A) Scheduling. The Clerk of the Board shall schedule hearings after consultation with the Chairperson. Modification of the scheduling must be approved by the Chairperson.
- (B) Notification of Hearing Date. The Clerk of the Board will notify the Assessor and the property owner or property owner's agent of the date, time, and time allotted for the hearing at least 48 hours in advance of the hearing, unless this requirement is waived by the property owner, the property owner's agent, and the Assessor.
- (C) Interest Accrual. If a property owner or a property owner's agent requests a postponement, continuance, or adjournment, interest on the claim shall permanently stop accruing at the date of the request as provided in Section 70.511 (2) of the

Wisconsin Statutes.

(D) Postponements. Postponements, continuances, or adjournments may not be granted in other than emergency situations or for other good cause shown. The Board has the right to require proof of any medical situation or substantiation of the good cause. If the Board determines that an emergency exists or other good cause is shown, the hearing shall be rescheduled.

Rule 10 Hearings

(A) Public Meetings. All meetings of the Board shall be publicly held and open to all citizens. Meetings shall be held in locations that are accessible to persons with disabilities. No formal action of any kind shall be introduced, deliberated upon, or adopted at any closed session or meeting.

(B) Public Notice. The Clerk of the Board shall post public notice of all meetings. Included in the notice will be the time, place and date of the meeting.

(C) Hours. Subject to the provisions of Section 70.47 of the Wisconsin Statutes, the Board shall determine their own hours as they feel necessary in order to act on all objections. The Board shall establish time limits for the hearing on any objection and such time limits shall be strictly enforced. The default time limit for residential cases is thirty minutes. The default time limit for commercial cases is three hours. The actual scheduling of cases will be performed by the City Clerk's office.

(D) Hearing Procedure. At each hearing, the Board or its designee will announce the names of the owners who are scheduled for hearing and will ascertain whether they or their agents are present. The Clerk of the Board will swear all persons testifying before the Board. Once that is accomplished, the hearing is ready to begin.

(1) The Board or its designee shall introduce the case, year, key number, etc. and provide the Board with a copy of the objection form.

(2) All proceedings shall be taken by a recording device at the expense of the City. The Clerk is responsible for keeping an accurate record of all the Board's proceedings and shall keep a list of the persons speaking in the order in which they speak.

(3) At the conclusion of each hearing, the Clerk shall notify the owner or the property owner's agent in writing of the decision of the Board. If the notice is not provided at the hearing, this notice shall be sent by United States mail, return receipt requested, addressed to the property owner or the property owner's agent at the address given on the objection form. The form shall include options as to how the property owner may appeal the valuation of their property.

(4) Upon completion of the hearings, the Clerk will post all changes in red ink to the official copy of the assessment roll, complete Board of Review Summary reports, and balance the assessment roll.

(5) In the event an objection is dismissed and no valuation hearing is granted and no waiver of the valuation hearing is approved, the Clerk shall notify the objector of the procedural decision made by the Board. Notice of the Board's procedural decision shall be sent by United States mail, return receipt requested, addressed to the property owner or the property owner's agent at the address given on the objection form. The notice of the procedural decision is not a determination of the finalized assessments and therefore shall not include options as to how the property owner may appeal a valuation determined by the Board.

(E) Hearing Process. The Board shall hear, under oath, all persons who appear regarding their assessment. The hearing shall proceed as follows:

(1) After the introduction of the case, the owner's witnesses shall be heard first. The owner or the owner's agent shall specify in writing their estimate of the value of the property that is subject to the objection and shall specify the information used to arrive at that estimate. The Board and the Assessor may ask the owner, the owner's agent, and the owner's witnesses questions.

(2) The Assessor and the Assessor's witnesses shall be heard second. The Assessor shall provide to the Board, specific information about the valuation to which an objection is made and shall provide the Board the information that the Assessor used to determine the valuation and defend the assessment. The Board and the property owner may ask the Assessor and the Assessor's witnesses questions.

(5) The Board may examine, under oath, other persons it believes may have knowledge of the valuation of the property being appealed.

(6) The Board may, and upon request of the Assessor, shall compel the attendance of witnesses and the production of all books, inventories, appraisals, documents, and other data which may be useful in determining the valuation of the property.

(F) Evidence. The hearing need not be conducted according to the technical rules of evidence. The Board may act only upon sworn oral evidence properly admitted into the record. The property owner or taxpayer or agent must provide ten (10) copies of any documents introduced as evidence at a hearing.

1) Appraisals will not be allowed as evidence at the Board of Review valuation hearing without the appraiser who conducted the appraisal being present to provide oral testimony, explain their work, and be subject to cross-examination

regarding the information contained in the appraisal. Submission of an appraisal without the presence of the appraiser to provide testimony is hearsay evidence – not sworn oral evidence – and cannot be considered by the Board of Review.

- 2) If the client of an appraisal submitted as evidence is not the property owner or the taxpayer, the client must provide written permission for: (1) the appraisal to be submitted as evidence, and (2) the appraiser to provide testimony at a Board of Review hearing.
- 3) The rule prohibiting the use of an appraisal as evidence during a valuation hearing without the testimony of the appraiser shall not preclude the Board of Review from subpoenaing copies of any appraisals of the subject property if requested by the assessor in accordance with Wis. Stat. 70.47(8)(d), which the Board may consider in its decision whether to approve any valuation hearing or hearing waiver request presented to it.
- 4) If requested by the Assessor, the Board of Review shall compel the attendance of an appraiser that conducted an appraisal of the subject property to present oral testimony regarding the appraisal.

Rule 11 Conflict of Interest

In the event a conflict of interest exists that involves a Board member, that Board member should excuse himself or herself from the hearing. That member should not be counted in determining a quorum for the hearing and shall not participate in the hearing in any manner. However, that does not mean that the Board member has to physically excuse himself or herself from the hearing. If a Board member has a conflict and refuses to excuse himself or herself the remaining Board members shall determine at what level the member with the conflict of interest may participate.

Rule 12 Board of Review Hearing Waiver

(A) The Board may, at the request of the taxpayer or Assessor, or at its own discretion, waive the hearing of an objection. If the Board waives the hearing, the taxpayer has sixty (60) days from the approval of the hearing waiver in which to commence an appeal action in Circuit Court under Wis. Stat. 74.37(3)(d). Requests to waive a Board of Review hearing must be submitted on the State prescribed form PA-813.

- i. The Clerk of the Board of Review shall promptly provide a copy of the approved hearing waiver to the taxpayer or agent of record, via email, to the email address listed on the objection form, and shall so designate the date of the email as the

date the objector was notified of the Board's decision to waive the valuation hearing.

- ii. The approved hearing waiver shall be sent via email even if a copy of the approved hearing waiver is given in person to the objector in attendance at a Board of Review proceeding.

(B) The Board may consider any or all of the following in determining whether to grant a request to waive a Board of Review valuation hearing:

- (1) A request by the Assessor to deny the hearing waiver because the objector or objector's representative has not been in contact or provided information to the Assessor in support of their opinion of valuation;
- (2) The objection form was dismissed by the Board of Review;
- (3) The objector failed to fully comply with the Board of Review subpoena;
- (4) The benefits or detriments of having a Board of Review record for a Court review;
- (5) The avoidance of lengthy or burdensome appeals;
- (6) The inability to cross-examine the person otherwise providing testimony to the Board; and/or
- (7) Any other circumstances the Board deems pertinent to deciding whether to waive the valuation hearing.

Rule 13 Withdrawal of Objection

An objection to an assessment may be withdrawn at any time prior to or at the time of the hearing upon written request signed by the owner or the owner's agent. In such cases, the objection is dismissed as null and void.

Rule 14 Failure to Appear

If the property owner or the property owner's agent fails to appear at the time scheduled for the hearing before the Board after at least 48 hours of advance notice was given, the failure to appear shall be grounds for dismissal of the objection.

Rule 15 Legal Counsel

The property owner, the Assessor, and the Board of Review may be represented by legal counsel. The Assessor and the Board cannot be represented by the same person.

Rule 16 Witnesses

The property owner and the Assessor may call witnesses to testify about the property.

Rule 17 Burden of Proof

The law presumes that the assessments contained in the assessment rolls have been fairly and equitably assessed in proper relationship to each other per Wis. Stat.

70.49(1). On appeal, the property owner must: (1) prove that the assessed value is incorrect; and (2) provide evidence that establishes the objector's opinion of value as stated on the objection form is correct.

Rule 18 Subpoenas

(A) In accordance with Wis. Stat. §70.47(8)(d), at the request of the Assessor, either in advance of or at a valuation or procedural hearing, the Board, or any member thereof, shall issue a subpoena for the attendance of witnesses and/or the production of "all books, inventories, appraisals, documents and other data which may throw light upon the value of property." The Board may issue a subpoena on its own motion at any time. In the event that the Board issues a subpoena, the objector shall have 10 days to produce the documents subpoenaed by the Board.

The Board need not be in session on the return date for the subpoena documents and any such documents produced shall be delivered to the Assessor and Board Clerk. Documents may be delivered in person, via fax or as attachments to an email. Any valuation hearing or subpoena compliance hearing shall be scheduled for a subsequent date no less than seven (7) days later to provide the Assessor with the opportunity to review the documents produced.

(B) The Board has the authority under the law to issue a subpoena to persons other than the objecting party. The subpoena may be served on the property owner or their agent of record via email to the email address listed on the objection form and such service shall be deemed proper service. The Agent Authorization form specifically requires the agent of the taxpayer to accept the subpoena on behalf of the property owner.

(C) Any information subpoenaed by the Board has been initially determined that it provide information related to the value of the property. If the owner or owner's agent raises an objection as to that initial finding, they may request the documents be held under seal by the Board's Clerk for review only by the Board members, the Assessor, and legal counsel, pending resolution of the relevance objection at a procedural hearing conducted by the Board. An objection to the relevance of documents shall not extend the time period for production of documents. In the event a document(s) subpoenaed by the Board is determined by a majority vote taken during the procedural hearing that

any such document does not throw light upon the value of property, the document in question shall be returned to the objector and no copies shall be kept by the Board or the Assessor.

(D) The following items have been determined by the Board to be relevant to the valuation of real property. This list is not meant to be exclusive as the Board of Review may subpoena documents outside of this list, if requested by the Assessor or on its own motion. Rather the list is provided to illustrate some of the more common items that are subpoenaed. Pursuant to statute, the Board of Review may lawfully subpoena any documents or witnesses that provide information that may tend to throw light on the value of the property. The Board is under no obligation to prove that any such information subpoenaed provide information as to the value of the property. Relevant information includes, but is not limited to:

- (1) Pursuant *Lowes v. City of Delavan*, 2023 WI 8, retail sales generated at the location of the subject property.
- (2) Actual detailed financial statements, including the income statement and balance sheet (with general ledger account numbers noted) of a property that has real property income producing capability. In addition, copies of federal income tax returns.
- (3) For any subsidized residential rental property, complete audited financial statements for the prior three tax years are determined to be relevant as well as copies of the federal income tax return of the entity that owns the subsidized housing property.
- (4) Any reasonably recent financing appraisal of the subject property defined as having a valuation date at any time within the five year period before January 1st of the current tax year which the objector may already have or shall be required to obtain from the lender. If the appraisal is not in the current possession of the objector the objector is required to make a good faith effort to obtain a copy of the appraisal from the lender and to advise the Board of the efforts taken in that regard. The objector shall cooperate with the Board in providing the necessary contact information of the lender in the event the Board decides to subpoena the financing appraisal directly from the lender. It shall be grounds for dismissal of the objection if the property owner fails to cooperate in the production of the appraisal, or if the property owner takes any steps to thwart the Board of Review from obtaining any such financing appraisal including denying permission to the lender to produce the financing appraisal and any related documents to such appraisal.
- (5) Construction costs, including hard and soft costs of any improvements made to the property within the last 10 years.
- (6) Copies of any purchase or sale agreements or closing documents involving the subject property of a sale that occurred within the prior five years of the assessment date. If the tenant is the objector, the tenant shall be required to obtain from the

property owner any such purchase or sale documents. Copies of leases or subleases or license agreements pertaining to the subject property.

(E) The Board has the right to refuse to hear an objection if the owner or the owner's agent fails to comply with the terms of the subpoena. Failure to substantially comply with a subpoena may result in a dismissal of the objection without a hearing on the merits of the valuation of the assessment upon a vote of the Board to that effect.

Rule 19 Continuances

The Board may continue any proceeding for a later date.

Rule 20 Record of Meetings

(A) Recordings. All proceedings shall be recorded in full by a recording device at the expense of the City.

(B) Transcript. The Board may order that the notes be transcribed, and in the case of an appeal or other court proceedings, they shall be transcribed at the property owner's expense.

(C) Court Reporter. If the property owner requests the Secretary provide for a court reporter, the property owner must make that request at least 72 hours prior to the date of the hearing, and must deposit with the Clerk the per diem fee established with the court reporter. The court reporter will be selected by the Clerk.

(D) Citizen Requests. Citizens may request a copy of the tape recording of the proceedings at a fee set by the City.

Rule 21 Decision of the Board

(A) Assessor Presumed Correct. The Board shall presume that the Assessor's valuation is correct. That presumption may be rebutted by a sufficient showing that the valuation is incorrect. From the evidence before it, the Board shall determine whether the Assessor's assessment is correct. If the assessment is too high or too low, the Board shall lower or raise the assessment accordingly and shall state on the record the correct assessment and that the assessment is reasonable in light of all of the relevant evidence that the Board received.

(B) Roll Call Vote. All determinations made by the Board shall be by roll call vote.

(C) Written Decisions. If a written decision is made, it should fairly and accurately

disclose the basis for the Board's decision. The valuation decision made by the Board shall be provided to the objector or its agent either in person or by first class mail. The notice of decision following the completion of the valuation hearing shall be completed using the Department of Revenue form.

(D) Denial of Valuation Hearing or Dismissal of an Objection. In the event a valuation hearing is denied and an objection is dismissed by the Board of Review for any of the reasons provided for in these rules and procedures, the Board shall not address the merits of the valuation. No Notice of Determination pursuant to Wis. Stat. 70.47 (12) shall be sent to the objector if the procedural decision is made by the Board to dismiss the objection. The Board Clerk shall notify the taxpayer in writing that the objection has been dismissed and the reasons cited by the Board for the dismissal.

Rule 22 Reconsideration and Rehearing

The decision of the Board regarding an objection is final. The Board shall not reconsider or rehear an objection unless ordered to do so by the Court.

Rule 23 Amendments to Rules and Procedures

These rules and procedures may be amended from time to time as required or determined by the Board of Review to be consistent with Wisconsin Statutes.

Rule 24 Copies of Rules

Copies of these rules and procedures shall be kept on file in the Office of the City Assessor and the Office of the City Clerk, and shall be made available for public review on the City's website and in person at City Hall during regular business hours.

Rule 25 SIGNATURE PAGE

Adopted by City of Wauwatosa Board of Review

Dated: _____

Board Chairman Name: _____

Board Chairman Signature: _____

Board Secretary Name: Zachary Kessler

Board Secretary Signature: _____

DRAFT