



Richard A. Bartolomei II
414.287.9301
rbartolomei@gklaw.com



Andrew S. Oettinger
414.287.9618
aoettinger@gklaw.com

Challenging residential property tax assessments

May is the time to challenge property tax assessments, and April is the time to gather market data, predict tax savings from a realistic reduction, and decide whether and how far to challenge a property tax assessment.

Each tax district in Wisconsin has a Board of Review or Board of Assessors that first meets in May to hear assessment objections. Meeting dates vary by tax district, but in 2016 can be held as early as May 9 or as late as June 8. Homeowners must allow the assessor to inspect their property and must file a written objection, propose a lower assessment, and submit supporting market data 48 hours before a board's first meeting in order to challenge an assessment.

Homeowners have a statutory right to a Board of Review hearing.¹ At a hearing, a homeowner must present evidence supporting a lower assessment and will be able to question the assessor's representative on the assessed value. The assessor can also present evidence supporting the assessed value and question the homeowner's witnesses and evidence. The Board of Review may approve or lower the assessment.

Before any formal board process, homeowners can and should informally request a lower assessment from their assessor. Assessors expect these informal requests and many have authority to lower an assessment before a formal board meeting or can be persuaded to suggest a lower assessment to the board.

Market data is crucial for both formal and informal challenges. Assessors strive to assess property at or near fair market value and must use a hierarchy of information to value property, including: (1) recent arm's length sales of the assessed property; (2) recent arm's length sales of comparable property in the municipality; and, if these sources are not available, only then (3) an appraisal of the property. *See State ex rel. Markarian v. City of Cudahy*, 45 Wis. 2d 683, 686 (1970). Many tax districts admittedly do not have the resources to evaluate every property every year, so the goal in any formal or informal challenge is to convince the decision-maker that market data supports a lower assessment.

Homeowners should obtain either a broker opinion from a realtor or an appraisal. Appraisals are sometimes difficult to obtain due to high demand, but if the property has not undergone a substantial renovation over the previous tax year, a taxpayer can save time and money and mount a successful challenge with a broker opinion alone.

Homeowners will likely have to decide to challenge without knowing their assessment for the year. Homeowners may receive notice in mid-April to early May that their assessment has changed from the previous year, but tax districts do not have to give notice when an assessment does not change. Because the May deadline to file a formal challenge varies by district, homeowners should not wait for a notice that may never come. Instead, homeowners and their attorneys should compare market data to the previous year's assessment in April to gauge whether to challenge their assessment by their board's May deadline.

If the assessor and the board do not lower the assessment, homeowners have two options for review in state court, *Certiorari* review or *de novo* review. In *certiorari* review, there is no trial and the court only examines the record evidence from the board hearing and defers to the board's determination unless the assessment was unreasonable or the board acted arbitrarily. In a *de novo* proceeding, homeowners must pay the tax on the assessed value and ask the court to declare the assessment excessive. In a *de novo* proceeding, the homeowner and the assessor can submit new evidence and the court is not required to defer to the board's decision.

Homeowners outside Milwaukee can ask the Wisconsin Department of Revenue to lower the assessment if their property is not assessed over \$1,000,000. The department will confer with the assessor and the homeowner to determine whether the assessment is out of proportion with the general level of assessment of all other property in the taxation district, i.e., the property was not assessed within 10 percent of all property within the taxing district. The department can revalue the property and the homeowner will pay taxes on that value.

Whether to challenge an assessment and how far to pursue the challenge depends on market data and expected tax relief. Taxpayers should look at their assessment, the available market data, and past tax bills to predict how much tax relief to expect from a realistic reduction. The amount of relief should dictate whether and how far to challenge an assessment.

¹In the city of Milwaukee, the Board of Assessors is the first formal review stage. Hearings may be held at this stage at the discretion of the Board of Assessors, but homeowners will be able to further pursue a hearing before the Board of Review if the Board of Assessors does not lower an assessment.

About Godfrey & Kahn, S.C.

With more than 160 lawyers, Godfrey & Kahn, S.C., one of Wisconsin's leading business law firms, serves growing companies who seek high quality and cost-effective legal counsel. The firm's practice is predominantly business-oriented, providing comprehensive advice to clients ranging from individuals, small businesses and governmental entities to large, privately and publicly held national and international corporations. We are a collaborative partner and measure our success by the success of our clients. Our firm offers legal services in the following areas: Corporate Finance, Environment and Energy Strategies, Estate Planning, Financial Institutions, Business Restructuring, Health Care, Intellectual Property, Investment Management, Labor, Employment, & Immigration, Litigation, Mergers & Acquisitions, Real Estate, Securities and Tax & Employee Benefits.