

City of Waukesha Board of Review Policy



Rule 1: Board of Review Authority and Duties

The Board of Review shall operate under the laws and rules set forth in:

- Chapter 70 of the Wisconsin Statutes.
- Relevant case law as decided by the Wisconsin Courts.
- Ordinances enacted in the City of Waukesha Municipal Code.
- Guidelines contained in the Wisconsin Property Assessment Manual for Wisconsin Assessors.
- Guide for Board of Review Members published by the Wisconsin Department of Revenue.

The Board is a quasi-judicial body whose duty is to hear sworn oral testimony and consider relevant evidence regarding assessed values of properties in the City of Waukesha. The Board shall follow the procedures in Chapter 70 of the Wisconsin Statutes in conducting hearings, evaluating evidence, and ensuring that objections are properly filed.

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. During the hearings, 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. An attorney from the City Attorney's office may assist the Board in any procedural matters.

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 2: Objections to Evaluations

Objections may be submitted in person, by mail, or by email, to the City Clerk. An objection to assessment of real property shall be in writing and made on the most recent "Objection to Real Property Assessment" Form PA-115A as prescribed and approved by the Wisconsin Department of Revenue. The objection shall specify, in writing, the person's estimate of the value of the land and of the improvements that are the subject of the person's objection and specify the information that the person used to arrive at that estimate. A separate objection form must be completed and submitted for each real property assessment to be appealed. Objection forms can be provided to property owners and/or objectors by the City Clerk's office and are available online at: <https://www.revenue.wi.gov/Pages/HTML/formpub.aspx>

To object to the assessed value of your property, objectors must:

- I. File written notice, or provide oral notice, of an intent to file an objection to the Board's Clerk at least 48 hours before the first scheduled meeting and

II. File a written objection within the first 2 hours of the Board's first scheduled meeting.

The Board may not hear an objection to the amount or valuation of property, unless, at least 48 hours before the board's first scheduled meeting, the objector provides to the Board's clerk written or oral notice of an intent to file an objection.

During the first two hours of the first scheduled meeting, the Board shall grant a waiver of the 48-hour notice requirement upon a showing of good cause and submission of a written objection. For the purpose of this section, good cause shall be determined on a case-by-case basis. Good cause is not demonstrated by ignorance of the Board of Review process or forgetting filing deadlines. The Board will consider the reason for the taxpayer's delay, the extent the taxpayer undertook any effort to comply with Board's filing requirements, experience filing objections before any Board, and any other information the Board deems relevant.

Objections to the amount or valuation of property shall first be made in writing and filed with the clerk of the Board within the first 2 hours of the board's first scheduled meeting. The Board may waive this requirement up to the end of the fifth day of the session, or up to the end of the final day of the session if the session is less than five days, if there is evidence of extraordinary circumstances. 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-reoccurring circumstances that are more severe than the circumstances to justify good cause.

An objection to a property assessment may be made by the property owner or an agent of the property owner. Objections made by an agent shall include a fully-completed Wisconsin Department of Revenue, Agent Authorization Form on the most recent Form PA-105, signed by the property owner. The Agent Authorization form must be completed by the person representing the property owner for each real property assessment being appealed. If the owner is a corporation, the objection form must be signed by an officer of the corporation indicating the position held.

No person shall be allowed to appear before the board of review, to testify to the board by telephone or to contest the amount of any assessment if the person has refused a reasonable written request by certified mail of the assessor to enter onto property to conduct an exterior view of the property being assessed.

Rule 3: Open Meetings and Scheduling Objections

All hearings and meetings before the Board shall be publicly held and open to all citizens. All meetings will be recorded by the City. 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. The Board shall schedule their own hours as necessary to act on all objections. The default time for residential cases is thirty minutes. The default time for commercial cases is one hour. The Board may allow more time at their discretion.

For each properly filed written 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, of the new time of the hearing. Postponements, continuances, or adjournments may be granted at the discretion of the Board.

Rule 4: Hearing Procedure and Presumption

Each party will have the opportunity to present their case to the Board. The Board's clerk shall swear all people testifying in before it. The objector will present their case first, then a representative from the City Assessor's Office. The property owner and City Assessor may call witnesses to testify regarding the property. Parties may have expert witnesses and will have the opportunity to cross-examine all witnesses. Members of the Board may also ask witnesses questions. The Board may act only upon evidence properly admitted into the record. The property owner or property owner's agent must provide copies of any documents introduced as evidence at a hearing seven days prior to the hearing.

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 and a showing of evidence that the objector's opinion of value as stated on the objection form is correct. The presumption of correctness may be rebutted if the assessor did not correctly apply the Wisconsin Property Assessment Manual and Wisconsin statutes or if a challenger presents significant contrary evidence. The assessor's valuation is binding on the Board in the absence of evidence showing it to be incorrect. The Board cannot do the work of the assessor and cannot substitute its judgment or opinion of value for the Assessor's. After weighing the evidence before it, if the Board determines that the Assessor's assessment is incorrect, 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.

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 personally 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 assessment of their property.

Failure of the property owner or the property owner's agent to appear at the scheduled time of a Board procedural or valuation hearing after at least 48 hours of advance notice was given shall be grounds for dismissal of the objection. 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 that 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.

In the event of a conflict of interest, the Board member with the conflict shall recuse themselves from the hearing and not be counted toward the quorum.

Rule 5: Hearing Waiver

The Board may, at the request of the taxpayer or Assessor, or at its own discretion, waive the hearing of an objection. Requests to waive a Board hearing must be submitted on the state prescribed Form PA-813.

The Board may consider the following in determining whether to grant a request to waive a hearing:

- The basis for requesting waiver.
- Whether each party agrees to the waiver.
- The benefits or detriments of having a hearing record for a court review.
- The avoidance of lengthy and burdensome appeals.
- The inability to cross-examine the person otherwise providing testimony to the Board.
- Failure to comply with a subpoena.
- Any other circumstances that the Board deems pertinent to deciding whether to waive the hearing.

Rule 6: Subpoenas

At the request of the Assessor, the Board 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 the Board issues a subpoena, they shall advise the objector of when the materials must be submitted. 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 Board has the right to refuse hearing 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 7: Sworn Telephone Testimony

The Board shall hear under oath, by telephone or internet, all ill or disabled persons who present to the Board a letter from a physician, osteopath, physician assistant, or advanced practice nurse prescriber that confirms their illness or disability.

The Board may allow the property owner, or the property owner's representative, at the request of either person, to appear before the board, under oath, by telephone, internet, or to submit written statements, under oath, to the Board. Before the Board can consider a request from a property owner or the property owner's representative to testify by telephone or submit a sworn statement, the owner must first complete and file with the Clerk of the Board a fully completed Request to Testify by Telephone or Submit a Sworn Written Statement at Board of Review Form, PA-814.

Rule 8: Quorum

A majority of the members of the Board present shall constitute a quorum, except that at least two members are required 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 not 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 not less than five days prior to the meeting to make a decision and listened to the recording beforehand.

Rule 9: Rules

These rules and procedures may be amended as required.

Index

Below are citations to the Wisconsin Statutes pertaining to each rule. In addition to the statute sections listed below, the City relies on Wisconsin Statutes Chapter 70 in its entirety, case law interpreting these statutes, and guidance from the Wisconsin Department of Revenue in crafting this policy.

- Rule 1 Board of Review Authority and Duties:Wis. Stat. §70.47
- Rule 2 Objections to Evaluations:Wis. Stat. §§70.47(7)(a)-(aa), 70.47(7)(ae)
- Rule 3 Open Meetings and Scheduling Objections:Wis. Stat. §§70.47(2m), 70.47(3)(ah), 70.47(8)(e)
- Rule 4 Hearing Procedure and Burden of Proof:Wis. Stat. §§70.47(8)(a)-(c), 70.47(8)(i), 70.47(9), 70.47(12), 70.49(2), 70.47(6m)(a)2
- Rule 5 Hearing Waiver:Wis. Stat. §70.47(8m)
- Rule 6 Subpoenas:Wis. Stat. §70.47(8)(d)
- Rule 7 Sworn Telephone Testimony:Wis. Stat. §70.47(8)
- Rule 8 Quorum:Wis. Stat. §§70.47(1), 70.47(9)