

City of Kenosha

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, the Code of general Ordinances for the City of Kenosha, relevant published decisions of the Wisconsin Courts, the instructions contained in the Wisconsin Property Assessment Manual for Wisconsin Assessors, 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 five(5) residents of the City of Kenosha. 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 at any time during the 45-day period beginning on the 4th Monday of April.

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.

Rule 3 Duties and Authority of Officers

(A) Chairman. The Chairman shall preside over all meetings of the Board. In the absence of the Chairman, the Vice-Chairman shall assume the duties of the Chairman.

(B) Rulings. During the hearing, the Chairman shall make all rulings regarding procedural matters and the admission or exclusion of evidence. If circumstances prove necessary, the Chairman 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) Secretary. The City will provide a Secretary for the Board. The duties of the Secretary 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 of the evidence, or
- Received the transcript of the hearing no less than five days prior to the meeting to make a decision and read the transcript, or
- Received a recording of the evidence no less than five days prior to the meeting to make a decision and listened to the recording, or
- Received a copy of a summary and all exceptions thereto no less than five days prior to the meeting to make a decision and read the summary and exceptions.

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. 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 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, the Board must decide whether an individual has proven the Assessor's assessment incorrect. If the Assessor's value 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) Exemptions. The Board has no jurisdiction to grant or deny exemptions or to consider allegations that claims for exemption from property taxes have been improperly denied.

(D) Legislative Powers. The Board has no legislative power except for the promulgation of these rules and procedures.

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.

Rule 7 Objection Filing

(A) Objection Forms. Objections shall be in writing and made on forms approved by the Wisconsin Department of Revenue.

- Objection forms shall be provided by the Assessor's Office free of charge.
- A separate objection form shall be completed for each assessment being appealed.

(B) Who may file. Objection to an assessment may be made by the owner of the property, a relative as specified in Rule 22, or the owner's agent. If the objection is made by an agent, written authorization to so act, signed by the owner must be filed with the objection form.

(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 office held.

(D) Completion of the Objection Form. The property owner or the property owner's agent shall complete the objection form in its entirety.

(E) Appeal from Determination of Board of Assessors. A person assessed who has been notified of the determination of the Board of Assessors will be considered to have accepted such determination unless the person notifies the City Assessor in writing within 15 days,

of a desire to present testimony before the Board of Review.

(F) Late Filed Objections. Good cause for accepting late filed objections are limited to the following:

- Invalid notice of assessment
- Owner or owner's agent was not in the country or otherwise unable to be reached during the entire notification period.
- Owner or owner's agent was incapacitated during the entire notification period.

Failure to receive a notice **is not** sufficient reason to accept a late objection. The Board will not consider valuation arguments to determine if a late filed objection should be accepted.

(G) Failure to Complete Objection Form or Provide Information. If the property owner or the property owner's agent does not complete the objection form in its entirety or fails to furnish any of the information requested on the objection form, the assessment objection is invalid and shall not be acted on by the Board. Prompt notice that an objection is invalid shall be given to the owner or the owner's agent by the City Assessor and the owner or the owner's agent shall be given one week to provide the requested information. If the requested information is not provided, the objection shall be considered invalid and shall not be acted on by the Board.

(H) Board to Analyze Objections That Do Not Comply with Established Procedures. The Board, in open session, shall review all objections that the Board of Assessors believes may not comply with the requirements of these rules and procedures. The Board shall inform the property owner of any denial and the reason for the denial.

(I) 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. The amount of the tax or the amount of an increase in assessed value shall not constitute facts sufficient to warrant a change in assessed value.

(J) Appealed Assessments. The Board of Assessors shall send a copy of its decision to the Board of Review Secretary so that it can be attached to the objection form.

Rule 8 Exchange of Information & Inspection

(A) Requests for Data Exchange. The property owner, the property owner's agent and/or Assessor may request an exchange of information:

(1) Requested By Owner. A request for exchange of information if made by the owner or the owner's agent, shall be filed in writing with the Assessor at any time prior to ten (10) days before the commencement of the hearing before the Board. The information provided by the Assessor shall be subject to Section 70.47(7)(af) of the Wisconsin Statutes, Section 27.085 of the Code of General Ordinances for the City of Kenosha, the restrictions and limitations of the Wisconsin Public Records Law, and cases and opinions decided thereunder.

(2) Request By Assessor. A request for exchange of information if made by the Assessor, may include:

(a) Comparable Sales Data. If the opinion of value is to be supported with evidence of comparable sales, the properties sold shall be described by the Assessor's parcel number, street address, or legal description sufficient to identify them, With regard to each property sold there shall be presented the date of sale, the price paid, and the terms of the sale if know.

(b) Income Data. If the opinion of value is to be supported with evidence based on an income study, there shall be presented the gross income, the net income, expenses, and capitalization method and rate or rates employed.

(c) Cost Data. If the opinion of value is to be supported with evidence of replacement cost there shall be presented:

(i) With regards to improvements to real property: the date of construction, the type of construction, and replacement cost of construction.

(ii) With regards to machinery and equipment: the date of acquisition, installed cost, and any history of extraordinary use.

(iii) With regard to both improvements and machinery and equipment; facts relating to depreciation, including any functional or economic obsolescence, remaining economic life and construction contracts.

(d) Additional Information. Depending on the type of property, the Assessor may request, and the property owner or the property owner's agent shall furnish all books, property statements, inventories, appraisals, closing statements, operating statements, income tax returns, purchase and sale agreements, listing contracts, leases, rent rolls, financial statements including but not limited to balance sheets and income statements, construction contracts, invoices, estimates, environmental audit reports, comparable sale analyses, options to purchase, rights of first refusal, counteroffers, offers to purchase, policies or certificates, mortgages, promissory notes, land contracts, documents, and other data that may shed light upon the value of the property.

(B) Board Subpoena Powers. If the property owner or property owner's agent fails to submit Assessor requested information, the Board shall, upon the Assessor's request, subpoena said information. The Board has the right to dismiss objections if the owner or the owner's agent fails to provide the information subpoenaed.

(C) New material; Continuance. If a party introduces new material at the hearing, the other party, upon request, shall be granted a continuance for a reasonable period of time.

(D) Property Owner Must Provide Income and Expense Data. No person shall be allowed to appear before the Board, to testify to the Board by telephone, or object to a valuation if that valuation was made by the Assessor or the owner using the income method, unless the owner supplies to the Assessor all of the information about the income and expenses as specified in the Wisconsin Property Assessment Manual, that the Assessor requests.

(E) Confidentiality of Income and Expense Data. Except as otherwise provided in Section 70.47(7)(af) of the Wisconsin Statutes and Section 27.085 of the Code of General Ordinances for the City of Kenosha, information about the income and expenses that is provided to the Assessor shall be confidential.

Rule 9 Scheduling

(A) Scheduling. The Secretary of the Board shall schedule hearings after consultation with the Chairman. Modification of the scheduling must be approved by the Chairman.

(B) Notification of Hearing Date. The Secretary 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 Secretary 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, which time limits shall be strictly enforced.

(D) Role of Secretary of the Board. At each hearing the Secretary will announce the names of the owners who are scheduled for hearing and will ascertain whether they or their agents are present. At

that point the Secretary of the Board will swear all persons testifying before the Board. Once that is accomplished the hearing is ready to begin.

- (1) The Secretary 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 Secretary 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 Secretary shall notify the owner or the property owner's agent in writing of the decision of the Board. This notice shall be given personally or 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 value of their property.
 - (4) Upon completion of the hearings the Secretary 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. The Vice Chairman is responsible to check all reports for accuracy.
- (E) Hearing Process. The Board shall hear, under oath, all persons who appear regarding the assessment. The hearing shall proceed as follows:
- (1) Once the secretary has introduced the case outlined in D(1) above, the owner or the owner's agent and 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 validity of the valuation to which objection is made and shall provide to the Board the information that the Assessor used to determine the valuation. The Board and the property owner may ask the Assessor and the Assessor's

witnesses questions.

(3) The property owner or the property owner's agent, first, and then the Assessor may briefly summarize their case.

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

(5) 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 value of the property.

(F) Evidence. The hearing need not be conducted according to the technical rules of evidence. Any relevant evidence may be admitted if it is the sort of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs. Failure to enter timely objection to evidence constitutes a waiver of the objection. The Board may act only upon the basis of evidence properly admitted into the record. Copies of all exhibits introduced at the hearing shall be provided to opposing parties as well as to each member of the Board and its counsel.

Rule 11 Conflict of Interest

In the event that a conflict of interest exists which 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 that hearing and shall not participate in that hearing in any manner. However, that does not mean that the Board member has to physically excuse himself or herself from that hearing.

Rule 12 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 assessment shall be sustained at the value determined by the Board of Assessors. The Board of review may, upon proper notification, review any assessment it believes incorrect, regardless of an appeal withdrawn.

Rule 13 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, the objection shall be dismissed.

Rule 14 Legal Counsel

The property owner, the Assessor, and the Board of Review may be represented by legal counsel. In the case where the Assessor and the Board are represented, this representation will not be by the same person.

Rule 15 Witnesses

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

Rule 16 Burden of Proof

The law presumes that the Assessor has properly performed their duties and has assessed all properties fairly and upon an equal basis. The effect of this presumption is to impose upon the property owner the burden of proving that the property in question has not been correctly assessed. The law requires that the property owner present evidence relevant to the full value of the property.

Rule 17 Subpoenas

At the request of the Assessor, either in advance of, or at the hearing, the Board, or any member thereof, shall issue subpoenas for the attendance of witnesses and/or the production of documents at the hearing. The Board may issue a subpoena on its own motion. Subpoenas to take a deposition shall not be issued or considered by the Board.

Rule 18 Continuances

The Board may continue a hearing to a later date. If the hearing is continued the Chairman will direct the Secretary of the Board to work with the property owner and the Assessor to determine a mutually acceptable hearing time and no further notice to either party needs to be given.

Rule 19 Record of Meetings

- (A) Recordings. All proceedings shall be taken 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 wishes to have the Secretary provide for a court reporter, the property owner must make that request at least one week prior to the date of the hearing and must deposit with the Secretary the per diem fee established with the court reporter. The court reporter will be selected by the Secretary.
- (D) Citizen Requests. Citizens may request a copy of the recording of the proceedings at a fee set by the City.

Rule 20 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 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.
- (B) Roll Call Vote. All determinations of objections 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.

(D) Comparable Sales. When valuing a property by comparison with sales of other properties, the Board shall consider only those sales which in its judgment are:

- (1) Sufficiently near in time to the January 1 assessment date:
- (2) Located sufficiently near and are sufficiently alike in respect to character, size, situation, usability, zoning or other legal restrictions to the subject property to be considered "reasonably comparable."

Rule 21 Reconsideration and Rehearing

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

Rule 22 Appearance at Board of Review

- (A) Owner. The property owner should appear personally at the hearing and not through an agent except as provided in Rule 7 (B). Appearances by officers or employees of corporate property owners is permitted.
- (B) Common Owners. If title to the property is held in joint or common ownership, the appearance of the joint or common owners is permitted.
- (C) Family Member. A husband may appear for his wife, or a wife for her husband. Sons and daughters may appear for parents.
- (D) HEARINGS. 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, or advanced practice nurse prescriber that confirms their illness or disability. The Board may allow the property owner or the property owner's representative to appear before the Board, under oath, by telephone or to submit written statements, under oath, to the Board. Such requests must be made by submitting Form PA-814 Request to Testify by Telephone or Submit a Sworn Statement at the Board of Review. The person making the request must provide the 48 hour notice of intent to appear and complete and submit the objection

form prior to submitting Form PA-814. The Board will review the request during the first meeting of the Board.

(E) WAIVER. The Board has the authority to waive a Board hearing at the request of the property owner, Assessor, or at its own discretion and allow a property owner an appeal directly to the circuit court. Such requests by the property owner or the Assessor must be made by submitting Form PA-813 Request for Waiver of Board of Review Hearing. The property owner making the request must provide the 48 hour notice of intent to appear and complete and submit the objection form. The Board will review the waiver requests during the first meeting of the Board.

Rule 23 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 available for public inspection at all times during regular business hours.

Adopted by City of Kenosha Board of Review

Dated: July 16, 2018