

**City Council Meeting
Tuesday, June 3, 2008
City Council Chambers
7:30 p.m.
AGENDA**



Call to Order

Pledge of Allegiance

1. Approval of Minutes
 - Council Minutes – May 20, 2008
2. Consent Agenda
 - Receipt of Board & Commission Minutes
 - EDA Commission - May 27, 2008
 - Utility Commission – May 28, 2008
3. Department Heads
4. License Applications
 - Business Solicitation – Schwan’s Home Service
 - Game of Skill – John Hedquist
5. Selection of Engineer for 2009-2010 Street Project
6. Regular Bills
7. Unfinished Business
8. New Business
9. Council Concerns
10. Adjourn



Council Meeting
Windom City Hall, Council Chamber
May 20, 2008
7:30 p.m.

1. Call to Order: The meeting was called to order by Mayor Tom Riordan at 7:30 p.m

2. Roll Call: Mayor: Tom Riordan

Council Members: Jean Fast, Kirby Kruse, Robert Messer,
Bradley Powers and JoAnn Ray

Council Members Absent:

City Staff Present: Steve Nasby, City Administrator; Jim
Kartes, Building Official; Aaron Backman,
EDA Executive Director; Al Baloun,
Recreation Director and Jeremy Rolfes,
Telecom

Public Present: Jeremy & Jodi Johnson and Dirk Abraham

3. Pledge of Allegiance

4. Approval of Minutes:

Motion by Fast, second by Powers, to approve the May 6, 2008 and May 12, 2008 minutes as revised. Motion carried 5 – 0.

Nasby said that he had corrections to the May 12, 2008 minutes. First, on page six the reference to “a representative for the Eunice Erpestad property” should be “Reid Erpestad”. Second, on page nine the fourth paragraph in the next to last sentence the word “type” should be “types” and Last, on page 15 the motion by Powers should be clarified to mean all of the remaining valuations proposed by the County Assessor were approved.

Riordan asked if these corrections were acceptable. Consensus of the Council that the changes were okay.

5. Approval of the Consent Agenda:

Motion by Messer, second by Powers, to approve the Consent Agenda.
Motion carried 5 – 0.

6. Department Heads:

Backman provided an update of EDA activities that included the ribbon-cutting at the River Bend Center for Sanford Medical, signing of a purchase agreement for the spec building and reminder that the public hearing on the sale of the spec building is scheduled for May 27.

Riordan asked what would be the next step for the EDA. Backman said the Board had started the year with a number of goals. These included increasing marketing and awareness, sale of the spec building, sale of one residential property in River Bluff, pursuing another SCDP grant and working to identify and contact prospective businesses. Backman was pleased to report that progress has been made on these goals and the pending sale of the spec building is a major accomplishment.

Powers asked if Backman had any responses to the bill board advertising. Backman said that the exposure has been positive for the EDA and Windom.

7. Planning Commission Conditional Use Permit – 375 River Bluff Drive:

Kartes said that the property owners, Jeremy and Jodi Johnson, have requested a conditional use permit to construct a second garage. The conditional use permit is needed because a second structure requires a 20,000 lot area and the lot Johnson's have is smaller than the requirement. He said the Planning Commission has recommended approval of the conditional use permit.

Fast asked if this was the first new building in River Bluff since the covenants were lifted. Kartes said it was the first, and a couple of other property owners have also talked to him about doing similar projects.

Motion by Powers, second by Messer, to approve the conditional use permit for 375 River Bluff Drive. Motion carried 5 – 0.

8. Resolution Designating Property for Economic Development Purposes – Lot 5, Block 2 of the Windom Industrial Park Subdivision:

Backman said that this lot was originally sold to James Kramer, et al, as part of the development for their business with the option by the EDA to re-purchase the property if it were not developed within five years. In 2005 the EDA re-purchased the property from Kramer. Because the property had been sold to Kramer it became taxable property; however, when the City re-purchased it in 2005 the filing needed to make it tax-exempt (due to EDA ownership) was not completed. Backman is requesting the Council approve this resolution designating the property for economic development thus restoring the tax-exempt status.

Fast asked if property taxes had been paid on this property since 2005. Backman said that some taxes had been paid.

Council member Messer introduced the Resolution No. 2008-13, entitled “RESOLUTION DESIGNATING CERTAIN PROPERTY FOR ECONOMIC DEVELOPMENT PURPOSES” and moved its adoption. The resolution was seconded by Kruse and on roll call vote: Aye: Fast, Kruse, Messer, Powers and Ray. Nay: none. Absent: none. Resolution passed 5-0.

9. License Applications:

Windom Youth Hockey Association – Exempt Permit for Gambling Raffle to be held on August 23, 2008

Motion by Messer, seconded by Kruse, to approve the exempt permit for Windom Youth Hockey for August 23, 2008. Motion carried 5 – 0.

Windom Youth Hockey Association – Exempt Permit for Gambling Raffle to be held on February 7, 2009

Motion by Ray, seconded by Fast, to approve the exempt permit for Windom Youth Hockey for February 7, 2009. Motion carried 5 – 0.

Lion’s Club – Dance Permit
Dance to be held on June 14, 2008

Motion by Ray, seconded by Kruse, to approve the dance permit for the Lion’s Club for June 14, 2008. Motion carried 5 – 0.

Lion’s Club – Temporary Liquor License
Event to be held on June 14, 2008 and June 15, 2008

Motion by Powers, seconded by Fast, to approve the temporary liquor license for the Lion’s Club for June 14, 2008 & June 15, 2008. Motion carried 5 – 0.

Lion’s Club – Temporary Liquor License
Event to be held on June 21, 2008

Motion by Powers, seconded by Fast, to approve the temporary liquor license for the Lion’s Club for June 21, 2008. Motion carried 5 – 0.

10. Pool Manager Contract:

Riordan asked Nasby to provide an overview. Nasby said that the pool management contract arrangement was created to resolve an issue with the pool

manager, Sally Oltmanns, also being a city employee. The contact is based upon the pool manager being an independent contractor, which is similar to other contractual arrangements for consultants; it includes a listing of tasks and duties and requires the pool manager to have their own liability insurance. Due to the insurance requirement, the cost for pool management went up about \$1,500 to cover the additional cost of the insurance. Nasby said that the life guards would still be City employees and covered by the City's insurance.

Fast noted the arrangement of a contractor overseeing employees is unusual. Nasby agreed, and added that Al Baloun, Recreation Director is ultimately the supervisor of the pool and oversees the City employees.

Motion by Messer, seconded by Fast, to approve the Pool Manager contract. Motion carried 5 – 0.

11. Resolution to Close UHF Fund and Transfer Residual Equity:

Council member Messer introduced the Resolution No. 2008-14, entitled “A RESOLUTION CLOSING THE UHF FUND” and moved its adoption. The resolution was seconded by Ray and on roll call vote: Aye: Kruse, Messer, Powers, Ray and Fast. Nay: none. Absent: none. Resolution passed 5-0.

Riordan noted the remaining balance of \$32,289.64 was to be transferred to the general fund.

12. Regular Bills:

Motion by Powers, seconded by Kruse, to approve the Regular Bills. Motion carried 5 – 0.

13. Unfinished Business:

None.

14. New Business:

None

15. Council Concerns:

None

16. Adjourn:

Motion by Powers, seconded by Fast, to adjourn. Motion carried 5 – 0.

Preliminary

Meeting adjourned at 7:50 p.m.

Tom Riordan, Mayor

Attest: _____
Steve Nasby, City Administrator

**ECONOMIC DEVELOPMENT AUTHORITY OF WINDOM
MINUTES
SPECIAL MEETING
MAY 27, 2008**

1. Call to Order: The meeting was called to order by President Erickson at 4:00 p.m.

2. Roll Call & Guest Introductions:

EDAWN Commissioners: Juhl Erickson, Nestor Palm, Trevor Slette, Kirby Kruse, and
Bob Messer.

Also Present: EDA Staff – Aaron Backman, Executive Director, and Mary Hensen, Adm.
Asst.; and Steve Nasby, City Administrator.

3. Approval of Minutes:

Motion by Commissioner Messer, seconded by Commissioner Palm, to approve the Minutes of the EDA Meeting held on May 12, 2008. Motion carried 5-0.

4. Public Hearing – Sale of Land – Lot 6, Block 2, Windom Industrial Park Subdivision:

A. President Erickson opened the public hearing at 4:06 p.m. The Commissioners had received copies of the proposed Purchase Agreement. Kevin Frodermann proposes to purchase Lot 6, Block 2, of the Windom Industrial Park Subdivision for a total purchase price of \$495,000. Director Backman reviewed the provisions of the purchase agreement with the Board. He further advised that Zieske Land Surveying had identified the property's boundaries and inserted corner stakes. The anticipated closing date is on or before August 1, 2008.

President Erickson asked if there were any other questions or comments from anyone in the audience. No other comments were received from anyone present. All public testimony was completed. President Erickson closed the public hearing and referred the matter to the EDA Board for consideration at 4:15 p.m. There was further discussion concerning the proposed purchase, including the assistance the EDA has been providing to Mr. Frodermann in locating a possible tenant(s) for the remaining space in the building.

B. Resolution No. 2008-06 (Re: Sale of Land):

Resolution introduced and motion by Commissioner Messer, seconded by Commissioner Palm, to adopt EDA Resolution No. 2008-06, entitled "Resolution Approving Sale of Property Described as Lot 6, Block 2 of Windom Industrial Park Subdivision to the City of Windom, Cottonwood County, Minnesota".

Upon roll call vote being taken, the following voted in favor thereof: Commissioners Kruse, Erickson, Palm, Messer, and Slette; the following voted against the same: None; the following were absent: None.

5. Prospect Update: Director Backman briefed the Board on subsequent communications with prospects resulting from the marketing campaign.

6. Unfinished/New Business: There was a preliminary discussion concerning possible subsequent projects after the closing on the sale. Director Backman updated the Board concerning the EDA's progress on the five goals set in January.
7. Miscellaneous Information: Director Backman reminded the Board of the June meeting date change from the 9th to June 11th at noon.
8. Adjourn: On motion, President Erickson adjourned the meeting at 4:46 p.m.

Nestor Palm, Secretary-Treasurer

Attest: _____
Aaron Backman, Executive Director

UTILITY COMMISSION MINUTES

City Hall
May 28, 2008

Call Meeting to Order: The Utility Commission meeting was called to order at 10:00 a.m., on May 28, 2008 in the City Hall Council Chambers.

Members Present: Utility Commission Chairperson: Mike Schwalbach

Members Present: Chris Johnson
Keith Bloomgren

City Council Liaison: Jean Fast

City Staff Present: Steve Nasby, City Administrator; Brigitte Olson, Assistant City Administrator; Marv Grunig, Electric Utility Manager; Mike Haugen, Water/Wastewater Superintendent

Others Present: Dave Easler; Poet Bio-Refinery, Bill Radio; MRES and Craig Mueller; Wenck Associates

APPROVAL OF MINUTES:

Motion by Johnson, seconded by Bloomgren, to approve the April 23, 2008 minutes with a typing correction on page 2 under "New Business" on the last paragraph change the word "copntact" to "contact". Motion carried 3-0.

WATER/WASTEWATER ITEMS:

April 2008 Landfill Sampling Report – Mueller reviewed with the Utility Commission the 2008 Landfill Sampling Report for vinyl chloride, cis-1 and dichloroethene, indicating that this is the winter and spring sampling. Mueller said that the results for this sampling period indicate that MW9B, MW5A and RWA, are as follows:

- Cis-1, 2-dichloroethene remains present at MW9B at similar concentrations of 1.1ug/l that have been seen for the past two years. In addition, cis-1, 2-dichloroethene was detected in MW5A and RWA at levels of 1.5 and 0.86ug/l respectively.
- Vinyl Chloride (VC) was found in MW5A (2.4 ug/l) above the action limit of 1.0 ug/l. This well was last sampled in July 2006 and had a VC concentration of 1.1 ug/l. Since 2006 this well has been dry and 1.2 feet of water column was present during the spring sampling event. MW5 contained VC concentrations of 0.44 ug/l, which is slightly above the minimum detection limits for VC but below the 1.0 ug/l action limit for the site. A duplicate sampling event showed the VC below detection limits.

Mueller recommended to the Utility Commission the following:

- MW5 will be sampled quarterly until concentrations of vinyl chloride are below 1.0 ug/l for four consecutive quarters, which follows the Groundwater Contingency Plan submitted in June 1999.
- As there was very little water present for sampling in MW5A, and the VC concentrations in MW5 and the duplicate MW5 samples was significantly lower than the concentrations at MW5A, Wenck recommends continued quarterly monitoring of MW5A rather than operating the recovery system at this time, as the qualifying amount of VC is in such a small amount of water available for sampling.
- RWA, MW5A, MW5 and CW7 will be sampled in July 2008. MPCA will be notified with a letter regarding the results of the sampling events, and the action proposed by the Utility Commission.

Motion by Johnson, seconded by Bloomgren to authorize Wenck Associates to submit a letter to Minnesota Pollution Control Agency (MPCA) accepting the Winter and Spring 2008 Sampling Events Report at the former Windom Municipal Dump. Motion Carried 3-0.

Poet Bio-Refinery – Dave Easler is requesting that Poet Bio-Refinery be billed for water usage, on their new meter and not the difference between the usage of the City of Bingham Lake and the Windom booster station. Easler said that Poet has had a new meter installed, and Mike Haugen, Water/Wastewater Superintendent has confirmed that this meter has been installed properly. Easler said that this would eliminate the loss of 12 million gallons of water per year that is un-accountable at Poet Bio-Refinery. The City of Bingham Lake is responsible for any leaks, as the service line belongs to them. Easler also said that he will be talking to the Bingham Lake City Council for their approval on this project, and that the remote reading of the meter will begin on July 1, 2008.

The Utility Commission agreed by general consensus to approve the request from Poet Bio-Refinery as they feel that this is the way the original contract between the City of Windom, City of Bingham Lake, and Poet Bio-Refinery reads.

Nasby indicated that the City of Windom and Poet Bio-Refinery will be reviewing their contract in the next few months.

Consumer Confidence Report – Haugen informed the Utility Commission that the Consumer Confidence Report - 2007 Drinking Water Report will be mailed in the Utility Bills this month, and that it will also appear on the City of Windom's Web sight.

Haugen also said that the 10th Street sewer service line has been connected for the Evangelical Free Church property and the responsibility for the capping of the service and cost of this project is yet to be determined. Haugen also indicted that the sewer service for the Brand property has been repaired.

ELECTRIC ITEMS:

WESTERN MINNESOTA MUNICIPAL POWER AGENCY – Representative Bill Radio from MRES gave a presentation requesting the City of Windom withdraw their Charter Membership to Western Minnesota Municipal Power Agency (WMMPA). He said that this was a membership agreement that the City of Windom entered into in the early 1970's at a one time cost of \$300.00. Radio indicated that the City of Windom does not purchase power from WMMPA, but are still considered members of this organization, and so the expenses that are associated in this membership cannot be defrayed through the purchase of power.

The Utility Commission requested that staff locate the original membership agreement, so that it could be determined what the context of this contract was intended for at the time of the purchase of this membership.

Radio said that ultimately WMMPA would request a letter from the City of Windom Utility Commission to withdraw their membership.

Big Stone II Transmission "Certificate of Need" Progress Report – Grunig informed the Utility Commission that the Big Stone II Transmission "Certificate of Need" will be going before the Minnesota Public Utility Commission (MPUC) on June 3, 2008, and a decision could be made by June 5, 2008.

Big Stone II "Power Sales Agreement" – Grunig presented the BSP II Project Powers Sales Agreement to the Utility Commission. He said that the City Attorney had reviewed the agreement and had requested four (4) minor changes, and that these changes were not made as the agreement was already presented to other utilities.

Utility Commission member Johnson introduced the Resolution No. 2008-1, and moved the adoption of the amended "Power Sales Agreement". The resolution was seconded by Bloomgren and on roll call vote Aye: Johnson, Bloomgren and Schwalbach. Nay: None. Absent: None. Resolution passed 3-0.

Powerhouse Roof Repair – Grunig presented the Utility Commission with a proposal for roof repair by Northern Insulation to the powerhouse in the amount of \$13,654.00.

Motion by Johnson, seconded by Bloomgren, approved the proposal from Northern Insulation in the amount of \$13,654.00 for repair to the roof at the powerhouse. Motion carried 3-0.

Alliant Energy Project Progress Report – Electric Utility Manager Grunig presented the first invoice to the Utility Commission for the 2008 Alliant Transmission Project, in the amount of \$57,652.78. Grunig said that the completion date for this project should be October 2008.

City of Windom Representatives to the Central MN Municipal Power Agency – Grunig informed the Commission that Central Minnesota Municipal Power Agency (CMMPA) is requesting a resolution to update the appointed representative and an alternate representative to the CMMPA/Utilities Plus and their Board of Directors. Grunig said that the representative should be himself, as the Electric Utility Manager and the alternate should be Steve Nasby, as the City Administrator.

Utility Commission member Bloomgren introduced the Resolution No. 2008-2, entitled "Resolution Recommending Appointments to Central Minnesota Municipal Power Agency (CMMPA) and Utilities Plus (UP) Board of Directors" The resolution was seconded by Johnson and on roll call vote Aye: Bloomgen, Schwalbach and Johnson. Nay: None. Absent: None. Resolution passed 3-0.

Service Area Map – Grunig review the service area map, as was reviewed by the City of Windom Utilities, South Central Electric Association, and Federated Rural Electric Association.

REGULAR BILLS:

Motion by Johnson, seconded by Bloomgren, to approve payment of the invoice to Wenck Associates in the amount of \$1,978.50. Motion carried 3-0.

OLD BUSINESS:

Nasby informed the Utility Commission that Mark Marcy has been in contact with Mike Haugen and Marv Grunig regarding Homeland Security issues. Marcy was unable to present information at this meeting but would be available at the next regular scheduled meeting.

NEW BUSINESS:

The next regularly scheduled Utility Commission meeting will be June 25, 2008 at 10:00 a.m.

On motion meeting was adjourned at 12:00 noon.

Mike Schwalbach, Chairperson

Attest: _____
Steve Nasby, City Administrator

CONSUMER CONFIDENCE REPORT

PWSID: 1170006

City of Windom 2007 Drinking Water Report

The City of Windom is issuing the results of monitoring done on its drinking water for the period from January 1 to December 31, 2007. The purpose of this report is to advance consumers' understanding of drinking water and heighten awareness of the need to protect precious water resources.

Source of Water

The City of Windom provides drinking water to its residents from a groundwater source: eight wells ranging from 87 to 142 feet deep, that draw water from the Quaternary Buried Artesian and Quaternary Water Table aquifers.

The water provided to customers may meet drinking water standards, but the Minnesota Department of Health has also made a determination as to how vulnerable the source of water may be to future contamination incidents. If you wish to obtain the entire source water assessment regarding your drinking water, please call 651-201-4700 or 1-800-818-9318 (and press 5) during normal business hours. Also, you can view it on line at www.health.state.mn.us/divs/eh/water/swp/swa.

Call 507-831-6138 if you have questions about the City of Windom drinking water or would like information about opportunities for public participation in decisions that may affect the quality of the water.

Results of Monitoring

No contaminants were detected at levels that violated federal drinking water standards. However, some contaminants were detected in trace amounts that were below legal limits. The table that follows shows the contaminants that were detected in trace amounts last year. (Some contaminants are sampled less frequently than once a year; as a result, not all contaminants were sampled for in 2007. If any of these contaminants were detected the last time they were sampled for, they are included in the table along with the date that the detection occurred.)

Key to abbreviations:

MCLG—Maximum Contaminant Level Goal: The level of a contaminant in drinking water below which there is no known or expected risk to health. MCLGs allow for a margin of safety.

MCL—Maximum Contaminant Level: The highest level of a contaminant that is allowed in drinking water. MCLs are set as close to the MCLGs as feasible using the best available treatment technology.

MRDL—Maximum Residual Disinfectant Level.

CONSUMER CONFIDENCE REPORT

PWSID: 1170006

MRDLG—Maximum Residual Disinfectant Level Goal.

AL—Action Level: The concentration of a contaminant which, if exceeded, triggers treatment or other requirement which a water system must follow.

90th Percentile Level—This is the value obtained after disregarding 10 percent of the samples taken that had the highest levels. (For example, in a situation in which 10 samples were taken, the 90th percentile level is determined by disregarding the highest result, which represents 10 percent of the samples.) Note: In situations in which only 5 samples are taken, the average of the two with the highest levels is taken to determine the 90th percentile level.

ppb—Parts per billion, which can also be expressed as micrograms per liter ($\mu\text{g/l}$).

ppm—Parts per million, which can also be expressed as milligrams per liter (mg/l).

N/A—Not Applicable (does not apply).

Contaminant (units)	MCLG	MCL	Level Found		Typical Source of Contaminant
			Range (2007)	Average /Result*	
Fluoride (ppm)	4	4	1.1-1.3	1.23	State of Minnesota requires all municipal water systems to add fluoride to the drinking water to promote strong teeth; Erosion of natural deposits; Discharge from fertilizer and aluminum factories.
Haloacetic Acids (HAA5) (ppb) (07/17/2006)	0	60	N/A	5.7	By-product of drinking water disinfection.
TTHM (Total trihalomethanes) (ppb) (07/17/2006)	0	80	N/A	17.7	By-product of drinking water disinfection.

*This is the value used to determine compliance with federal standards. It sometimes is the highest value detected and sometimes is an average of all the detected values. If it is an average, it may contain sampling results from the previous year.

Contaminant (units)	MRDLG	MRDL	****	*****	Typical Source of Contaminant
Chlorine (ppm)	4	4	.18-1.87	.9	Water additive used to control microbes.

****Highest and Lowest Monthly Average.

*****Highest Quarterly Average.

CONSUMER CONFIDENCE REPORT

PWSID: 1170006

Contaminant (units)	MCLG	AL	90% Level	# sites over AL	Typical Source of Contaminant
Copper (ppm) (06/15/2005)	N/A	1.3	1.32	2 out of 20	Corrosion of household plumbing systems; Erosion of natural deposits.
Lead (ppb) (06/15/2005)	N/A	15	3	0 out of 20	Corrosion of household plumbing systems; Erosion of natural deposits.

If present, elevated levels of lead can cause serious health problems, especially for pregnant women and young children. Lead in drinking water is primarily from materials and components associated with service lines and home plumbing. City of Windom is responsible for providing high quality drinking water, but cannot control the variety of materials used in plumbing components. When your water has been sitting for several hours, you can minimize the potential for lead exposure by flushing your tap for 30 seconds to 2 minutes before using water for drinking or cooking. If you are concerned about lead in your water, you may wish to have your water tested. Information on lead in drinking water, testing methods, and steps you can take to minimize exposure is available from the Safe Drinking Water Hotline or at <http://www.epa.gov/safewater/lead>.

Some contaminants do not have Maximum Contaminant Levels established for them. These unregulated contaminants are assessed using state standards known as health risk limits to determine if they pose a threat to human health. If unacceptable levels of an unregulated contaminant are found, the response is the same as if an MCL has been exceeded; the water system must inform its customers and take other corrective actions. In the table that follows are the unregulated contaminants that were detected:

Contaminant (units)	Level Found		Typical Source of Contaminant
	Range (2007)	Average/ Result	
Sodium (ppm)	N/A	13	Erosion of natural deposits.
Sulfate (ppm)	N/A	82.4	Erosion of natural deposits.

Compliance with National Primary Drinking Water Regulations

During the year, we failed to take a sample and/or submit information on Total Coliform Bacteria during the required testing period(s) of December 1, 2007 to December 31, 2007. Because we did not monitor or failed to monitor completely during the compliance period(s), we did not know whether Total Coliform Bacteria were present in your drinking water, and we are unable to tell you whether your health was at risk during that time.

The sources of drinking water (both tap water and bottled water) include rivers, lakes, streams, ponds, reservoirs, springs, and wells. As water travels over the surface of the land or through the ground, it dissolves naturally-occurring minerals and, in some cases, radioactive material, and can pick up substances resulting from the presence of animals or from human activity.

CONSUMER CONFIDENCE REPORT

PWSID: 1170006

Contaminants that may be present in source water include:

Microbial contaminants, such as viruses and bacteria, which may come from sewage treatment plants, septic systems, agricultural livestock operations, and wildlife.

Inorganic contaminants, such as salts and metals, which can be naturally-occurring or result from urban stormwater runoff, industrial or domestic wastewater discharges, oil and gas production, mining, or farming.

Pesticides and herbicides, which may come from a variety of sources such as agriculture, urban stormwater runoff, and residential uses.

Organic chemical contaminants, including synthetic and volatile organic chemicals, which are by-products of industrial processes and petroleum production, and can also come from gas stations, urban stormwater runoff, and septic systems.

Radioactive contaminants, which can be naturally-occurring or be the result of oil and gas production and mining activities.

In order to ensure that tap water is safe to drink, the U. S. Environmental Protection Agency (EPA) prescribes regulations which limit the amount of certain contaminants in water provided by public water systems. Food and Drug Administration regulations establish limits for contaminants in bottled water which must provide the same protection for public health.

Drinking water, including bottled water, may reasonably be expected to contain at least small amounts of some contaminants. The presence of contaminants does not necessarily indicate that water poses a health risk. More information about contaminants and potential health effects can be obtained by calling the Environmental Protection Agency's Safe Drinking Water Hotline at 1-800-426-4791.

*Some people may be more vulnerable to contaminants in drinking water than the general population. Immuno-compromised persons such as persons with cancer undergoing chemotherapy, persons who have undergone organ transplants, people with HIV/AIDS or other immune system disorders, some elderly, and infants can be particularly at risk from infections. These people should seek advice about drinking water from their health care providers. EPA/CDC guidelines on appropriate means to lessen the risk of infection by *Cryptosporidium* are available from the Safe Drinking Water Hotline at 1-800-426-4791.*

Paid 60.00
CK 40094
5/21/08

CITY OF WINDOM
APPLICATION FOR BUSINESS SOLICITATION
Re; City Code, Chapter 6-Sec. 6.40

Solicitor's Name: Tollefson Mark Orlyn
Last First Middle

Date of Birth: 11-25-53

Driver's License Number: K-40113245 1905 State of Issue: MI

Address: (Street, City, State, Zip) 21455 230th St Lucon MN 56255

Name of Business or Organization: Schwan's Home Service Inc
Attn: Corporate Tax
Address of Business or Organization: 115 W. College Dr
Marshall, MN 56258
507-532-3274 X-2960

Purpose of SOLICITATION: Frozen Food Sales

If door to door solicitation indicate area to be solicited: Residential District
 Commercial District

If Transient merchant - state location from which merchandise will be sold _____

If Telephone solicitation - state location from which calls will be made _____

Initial Investigation Fee - \$20.00
Annual License Fee - \$40.00
5-12-08
Date

Bonnie Kopitzke License Coordinator
Applicant's Signature

I have on 5/21, ~~18~~ 2008 collected from applicant \$ 60.00 as prescribed in Section 6.40 of the City Code.

City Clerk

Referred to the Police Chief on 5-22-08.
Recommendation: Approved Disapproved _____ If disapproved, give reason: _____

5-22-08
Date

Jeffrey A. Stuber
Police Chief

Approved by the City Council on _____, 19____.



APPLICATION FOR MUNICIPAL LICENSES
CITY OF WINDOM
WINDOM, MN

STATE OF MINNESOTA
COUNTY OF COTTONWOOD
CITY OF WINDOM

TO: John Hedquist
43495 410th Ave
Heron Lake, MN 56137

RE: Windom Arena

This application is appropriate for item or items checked below, for the term of one year from January 1, 2008 to December 31, 2008.

_____ Cigarette License	\$20.00
___1___ Game of Skill	\$50.00 First Game \$15.00 Each Additional Game
_____ Theatre	\$25.00

Total 50.00

MN Tax ID # 468-P-2726
Federal Tax ID # 468-P-2726

Dated this 27th Day of May, 2008.



Signature of Applicant



CITY OF WINDOM
FM Entry - Invoice Payment - Department Report

Department	Vendor Name	Description	Amount
CITY OFFICE	DAVIS TYPEWRITER	SUPPLIES	32.83
	Total for Department 103		32.83*
P & Z / BUILDING OFF	MIDWEST WIRELESS	TELEPHONE	21.49
	Total for Department 106		21.49*
POLICE	DELL MARKETING L.P.	COMPUTER / SOFTWARE	1,144.32
POLICE	LANGUAGE LINE SERVIC	SERVICE	62.48
POLICE	TRAVEL MANAGEMENT	LEASE CAR	2,463.90
POLICE	UNICEL	TELEPHONE	284.27
	Total for Department 120		3,954.97*
	Total for Fund 01		4,009.29*
LIBRARY	MN ENERGY RESOURCES	HEATING	577.73
	Total for Department 171		577.73*
	Total for Fund 03		577.73*
AMBULANCE	KATE AXFORD	EXPENSE	77.52
AMBULANCE	TIM HACKER	EXPENSE	56.58
AMBULANCE	ALLAN REMPEL	EXPENSES	10.43
	Total for Department 176		144.53*
	Total for Fund 13		144.53*
MULTI-PURPOSE BUILDI	MN ENERGY RESOURCES	HEATING	1,090.69
	Total for Department 177		1,090.69*
	Total for Fund 14		1,090.69*
	B & D BUILDERS, INC.	SCDP LOAN	9,342.00
	Total for Department		9,342.00*
	Total for Fund 17		9,342.00*
LIQUOR	JOHNSON BROS.	MERCHANDISE	478.00
LIQUOR	MN DEPT OF AGRICULTU	LICENSE	77.00
LIQUOR	PHILLIPS WINE & SPIR	MERCHANDISE	1,250.87
LIQUOR	QUALITY WINE SPIRITS	MERCHANDISE	3,860.15
	Total for Department 180		5,666.02*
	Total for Fund 60		5,666.02*
WATER	H P SUDS	BILLING CONTRACT SERVICE	144.79
WATER	MN ENERGY RESOURCES	HEATING	676.39
WATER	RON'S ELECTRIC	MAINTENANCE	1,669.47
	Total for Department 181		2,490.65*
	Total for Fund 61		2,490.65*

CITY OF WINDOM
FM Entry - Invoice Payment - Department Report

Department	Vendor Name	Description	Amount
	ODDSON UNDERGROUND	BORING	1,475.50
	ALLIANT ENERGY	TRANSMISSION AGREEMENT	57,652.78
	SHAWN MURPHY	REFUND - UTILITY PREPAYM	125.00
	Total for Department		59,253.28*
ELECTRIC	CENTRAL MINNESOTA MU POWER COST		178,986.80
ELECTRIC	H P SUDS	BILLING CONTRACT SERVICE	144.79
ELECTRIC	HSBC BUSINESS SOLUTI	SUPPLIES	279.52
ELECTRIC	MN ENERGY RESOURCES	HEATING	84.04
ELECTRIC	BANK MIDWEST	NSF CHECK	312.14
	Total for Department 182		179,807.29*
	Total for Fund 62		239,060.57*
SEWER	H P SUDS	BILLING CONTRACT SERVICE	144.79
SEWER	MN ENERGY RESOURCES	HEATING	54.04
SEWER	RON'S ELECTRIC	MAINTENANCE	514.58
	Total for Department 183		713.41*
	Total for Fund 63		713.41*
ARENA	ELECTRIC FUND	MAINTENANCE	6.01
ARENA	MIDWEST WIRELESS	TELEPHONE	39.91
	Total for Department 184		45.92*
	Total for Fund 64		45.92*
ECONOMIC DEVELOPMENT	MIDWEST WIRELESS	TELEPHONE	47.02
ECONOMIC DEVELOPMENT	MN ENERGY RESOURCES	HEATING	158.29
ECONOMIC DEVELOPMENT	ZIESKE LAND SURVEYIN	SERVICE	435.00
ECONOMIC DEVELOPMENT	LAMAR	SIGN AND INSTALLATION	325.00
	Total for Department 187		965.31*
	Total for Fund 67		965.31*
TELECOMMUNICATIONS	H P SUDS	BILLING CONTRACT SERVICE	434.38
TELECOMMUNICATIONS	MN ENERGY RESOURCES	HEATING	92.71
	Total for Department 199		527.09*
	Total for Fund 69		527.09*
AFLAC		INSURANCE4	444.78
	Total for Department		444.78*
	Total for Fund 70		444.78*
	Grand Total		265,077.99*

CITY OF WINDOM
FM Entry - Invoice Payment - Department Report

Department	Vendor Name	Description	Amount
MAYOR & COUNCIL	SECR REV FUND/CITY O	EXPENSE	6.00
	Total for Department 101		6.00*
CITY OFFICE	HEARTLAND TECHNOLOGY	BILLING SYSTEM FIRE WALL	40.00
CITY OFFICE	MCFOA	DUES	35.00
CITY OFFICE	MN NCPERS LIFE INSUR	INSURANCE	80.00
CITY OFFICE	SECR REV FUND/CITY O	EXPENSE	10.00
	Total for Department 103		165.00*
P & Z / BUILDING OFF	HEARTLAND TECHNOLOGY	BILLING SYSTEM FIRE WALL	40.00
P & Z / BUILDING OFF	JIM KARTES	EXPENSE	7.66
P & Z / BUILDING OFF	MN NCPERS LIFE INSUR	INSURANCE	24.00
	Total for Department 106		71.66*
CITY HALL	MN ENERGY RESOURCES	HEATING	757.96
	Total for Department 115		757.96*
POLICE	MN NCPERS LIFE INSUR	INSURANCE	144.00
POLICE	DANA WALLACE	EXPENSE	8.25
	Total for Department 120		152.25*
FIRE DEPARTMENT	MIDWEST WIRELESS	TELEPHONE	27.04
	Total for Department 125		27.04*
STREET	KOLANDER TREE SERVIC	STUMP REMOVAL	150.00
STREET	MN NCPERS LIFE INSUR	INSURANCE	89.00
STREET	RYAN TREE SERVICE	MAINTENANCE	909.51
STREET	THE SEED CENTER	MAINTENANCE	93.75
	Total for Department 140		1,242.26*
PARKS	MN NCPERS LIFE INSUR	INSURANCE	32.00
	Total for Department 165		32.00*
	Total for Fund 01		2,454.17*
LIBRARY	RECORDED BOOKS, LLC	AUDIO	446.00
	Total for Department 171		446.00*
	Total for Fund 03		446.00*
AIRPORT	MN DEPT OF ADMINISTR	TELEPHONE	19.60
	Total for Department 174		19.60*
	Total for Fund 11		19.60*
MULTI-PURPOSE BUILDI	MN DEPT OF ADMINISTR	TELEPHONE	19.60
MULTI-PURPOSE BUILDI	MN NCPERS LIFE INSUR	INSURANCE	16.00
	Total for Department 177		35.60*
	Total for Fund 14		35.60*

CITY OF WINDOM
FM Entry - Invoice Payment - Department Report

Department	Vendor Name	Description	Amount
SCDP	BANK MIDWEST	NSF CHECK	89.85
		Total for Department 163	89.85*
		Total for Fund 17	89.85*
LIQUOR	BEVERAGE WHOLESALERS	MERCHANDISE	10,431.77
LIQUOR	CADBURY SCHWEPPE	BO MERCHANDISE	47.60
LIQUOR	HAGEN DISTRIBUTING	MERCHANDISE	15,567.70
LIQUOR	HOLINKA DISTR. CO.	MERCHANDISE	161.25
LIQUOR	MN NCPERS LIFE INSUR	INSURANCE	28.00
LIQUOR	MN ENERGY RESOURCES	HEATING	288.49
LIQUOR	QUALITY WINE SPIRITS	MERCHANDISE	91.19
		Total for Department 180	26,616.00*
		Total for Fund 60	26,616.00*
WATER	CITY OF WINDOM	PATCH MAINTENANCE	1,182.50
WATER	H P SUDS	BILLING CONTRACT SERVICE	134.38
WATER	MN NCPERS LIFE INSUR	INSURANCE	40.00
		Total for Department 181	1,356.88*
		Total for Fund 61	1,356.88*
	MARK MARCY	REFUND - UTILITY PREPAYM	20.00
	SECR REV FUND/CITY O	REFUND-UTILITY PREPAYMEN	550.00
	MICHAEL ABEL	REFUND - UTILITY PREPAYM	125.00
	MARK ALVARADO	REFUND - UTILITY PREPAYM	125.00
	BONNY MESSER	REFUND - UTILITY PREPAYM	125.00
	VICKY UHLENHOPP	REFUND - UTILITY PREPAYM	20.00
	MARGARET ULLERY	REFUND - UTILITY PREPAYM	125.00
	TERRY UTECH	REFUND - UTILITY PREPAYM	125.00
	SARAH VEENKER	REFUND - UTILITY PREPAYM	125.00
	NATHAN VERHOEVEN	REFUND - UTILITY PREPAYM	125.00
	VONNIE VOLK	REFUND - UTILITY PREPAYM	125.00
		Total for Department	1,590.00*
ELECTRIC	H P SUDS	BILLING CONTRACT SERVICE	134.38
ELECTRIC	JOHNSON HARDWARE	MAINTENANCE	10.06
ELECTRIC	MIDWEST WIRELESS	TELEPHONE	90.05
ELECTRIC	MN NCPERS LIFE INSUR	INSURANCE	89.00
ELECTRIC	BANK MIDWEST	NSF CHECK	725.12
		Total for Department 182	1,048.61*
		Total for Fund 62	2,638.61*
SEWER	H P SUDS	BILLING CONTRACT SERVICE	134.38
SEWER	MN NCPERS LIFE INSUR	INSURANCE	72.00
SEWER	MN ENERGY RESOURCES	HEATING	15.36
SEWER	ZIESKE LAND SURVEYIN	SERVICE	6,764.00
SEWER	SCOTT VEENKER	TRACTOR RENTAL	575.00

CITY OF WINDOM
FM Entry - Invoice Payment - Department Report

Department	Vendor Name	Description	Amount
		Total for Department 183	7,560.74*
		Total for Fund 63	7,560.74*
ARENA	MN NCPERS LIFE INSUR	INSURANCE	25.00
ARENA	MN ENERGY RESOURCES	HEATING	697.44
ARENA	PETERSON FEED	WOOD CHIPS	5,072.00
		Total for Department 184	5,794.44*
		Total for Fund 64	5,794.44*
	BANK MIDWEST	LOAN PAYMENT	4,000.00
		Total for Department	4,000.00*
ECONOMIC DEVELOPMENT	AARON BACKMAN	EXPENSE	159.08
ECONOMIC DEVELOPMENT	HEARTLAND TECHNOLOGY	BILLING SYSTEM FIRE WALL	40.00
ECONOMIC DEVELOPMENT	MN NCPERS LIFE INSUR	INSURANCE	24.00
ECONOMIC DEVELOPMENT	SECR REV FUND/CITY O	EXPENSE	4.00
ECONOMIC DEVELOPMENT	BOB YSKER	MOWING	55.00
ECONOMIC DEVELOPMENT	ALLTEL CENTER	REGISTRATION	15.00
		Total for Department 187	297.08*
		Total for Fund 67	4,297.08*
RIVERBLUFF ESTATES	BRADY POWERS	MOWING	413.00
		Total for Department 166	413.00*
		Total for Fund 68	413.00*
	SYLVIA WAGNER	REFUND - CABLE CREDIT	1.64
		Total for Department	1.64*
TELECOMMUNICATIONS	H P SUDS	BILLING CONTRACT SERVICE	403.11
TELECOMMUNICATIONS	MIDWEST WIRELESS	TELEPHONE	361.22
TELECOMMUNICATIONS	MN NCPERS LIFE INSUR	INSURANCE	80.00
TELECOMMUNICATIONS	QUEST	TELEPHONE	98.07
TELECOMMUNICATIONS	QWEST COMMUNICATIONS	LEXIS BILLING SERVICE	67.69
TELECOMMUNICATIONS	PRO CELLULAR	TELEPHONE	468.50
TELECOMMUNICATIONS	SECR REV FUND/CITY O	EXPENSE	3.00
TELECOMMUNICATIONS	YELLOW BOOK USA	ADVERTISING	407.00
TELECOMMUNICATIONS	SYLVIA WAGNER	REFUND - CABLE CREDIT	25.30
		Total for Department 199	1,913.89*
		Total for Fund 69	1,915.53*
	AFSCME	UNION DUES	188.30
	JOHNSON COUNTY COURT	PAYROLL DEDUCTION CDDMO1	1,202.00
	LOCAL UNION #949	UNION DUES	1,499.72
	MN NCPERS LIFE INSUR	INSURANCE	32.00
		Total for Department	2,922.02*

CITY OF WINDOM
FM Entry - Invoice Payment - Department Report

Department	Vendor Name	Description	Amount

		Total for Fund 70	2,922.02*
		Grand Total	56,559.52*

The Robert and Helen Remick Charitable Foundation Trust
Windom, Minnesota

John Remick
Lynel Nelson
Cheryl Holthe Rients
Howard Davis
Trustees

Address correspondence to:
Patrick Costello
P. O. Box 123
Lakefield, MN 56150
(507) 662-6621

May 22, 2008

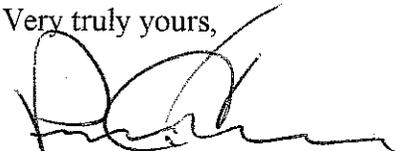
Denise Nichols
City of Windom
444 9th Street
P. O. Box 38
Windom, MN 56101

Dear Ms. Nichols:

On behalf of the trustees, I am pleased to inform you that the grant application submitted for the fire department Jaws of Life equipment in the amount of \$20,000.00 has been approved. We are currently planning to fund this distribution in mid-June.

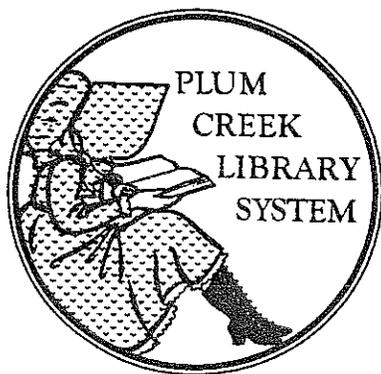
If you have any questions regarding this matter, please do not hesitate to contact our office. Thank you for your interest in the Remick Foundation.

Very truly yours,



Patrick K. Costello for
The Robert and Helen Remick Charitable Foundation Trust

PKC:clr



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May 29, 2008

To: PCLS County Signatories

From: Mark Ranum, Director

Re: Maintenance of Effort suspension

Many of you have now heard the details of the Omnibus Tax Bill, HF 3149. Specifically, I refer you to Article 3, Section 5.

Sec. 5. [275.76] MAINTENANCE OF EFFORT AND MATCHING REQUIREMENTS SUSPENDED.

Notwithstanding any law to the contrary, all maintenance of effort and matching fund requirements for counties, including, but not limited to, those under sections 116L.872, 119B.11, 134.34, 145A.131, 145.882, 242.39, 245.4835, 245.714, 254B.02, 254B.03, 256B.0625, 256F.10, and 256F.13, are suspended for the taxes payable years that levy limits are in effect.

This suspension of Maintenance of Effort requirements set forth in MN Statute 134.34 affects county support for libraries.

By now you are all aware that the Governor and legislative leaders have agreed to repeal the MOE provision retroactively as soon as they convene in January. The Governor's office confirmed that the Governor has received a letter (attached) from legislative leaders announcing their intent. The tax chairs have also signed the letter.

Counties will be advised to proceed as if the MOE provision had never been passed.

Please let me know if I can be of assistance by providing more information or discussion on this issue. Thank you.

cc: Signatories City Councils, PCLS Legislators, Advisory Council, Governing Board



May 27, 2008

Governor Tim Pawlenty
Office of the Governor
130 State Capitol
75 Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

Dear Governor Pawlenty,

This letter is intended to incorporate our agreement regarding two provisions in H.F. No. 3149, the 2008 Omnibus Tax Bill.

First, with respect to Article 3, section 5, the temporary suspension of county maintenance of effort and matching requirements, we agree to repeal that provision retroactive to the date of its original enactment. The intent and shared understanding of the conferees on the tax bill was that implementation of this provision would not have an impact on the state budget.

Second, with respect to Article 17, section 4, we also agree to repeal that provision retroactive to the date of its original enactment, and intend to replace it with a credit for health insurance premiums paid by previously uninsured individuals with limited household incomes. The Commissioner of Commerce has authority under Article 17, section 4, subdivision 2, to delay applications for the credits that would have been available under the current provision.

Our intention is to have introduced and enacted a separate bill that includes only these provisions as early as possible in the 2009 legislative session.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Lawrence J. Pogemiller".

Lawrence J. Pogemiller
Senate Majority Leader

A handwritten signature in black ink, appearing to read "Tom Bakk".

Senator Tom Bakk
Senate Tax Committee Chair

A handwritten signature in black ink, appearing to read "Margaret Anderson Kelliher".

Margaret Anderson Kelliher
Speaker of the House

A handwritten signature in black ink, appearing to read "Ann Lenczewski".

Representative Ann Lenczewski
House Tax Committee Chair





-FridayFax-

A weekly legislative update from the League of Minnesota Cities

May 23, 2008

Page 1

One last FridayFax for the year

The eighty-fifth session of the Minnesota Legislature was gavelled to a close on Sunday night shortly before midnight. During the final days of the session, the legislature sent 24 chapters of new law to the governor. Under the state's Constitution, the governor has 14 days to act on these bills sent to him in the final three days of the session. The governor can sign, veto or pocket veto these remaining chapters—and he has until June 2 to make his decisions.

Perhaps the two most important chapters sent to the governor are Chapter 363, the omnibus supplemental budget bill and Chapter 366, the omnibus tax bill. Together, these two bills form the basis of the legislature's response to the state's projected \$935 million budget shortfall.

The remaining chapters include Chapters 347 through 370 and include:

Chapter 349—Omnibus Pension Bill

Chapter 350—the second Omnibus Transportation Policy Bill

Chapter 352—Subprime Borrower Relief Act

Chapter 355—Increasing penalties for smoking in nonsmoking hotel rooms

Chapter 356—Local Government Energy Policy Bill

Chapter 357—Omnibus Environment and Natural Resources Policy Bill

Chapter 358—Omnibus Health Care Reform Bill

Chapter 360—State Budget Reform Bill

Chapter 362—Mortgage Foreclosure Assistance Bill

Chapter 363—Omnibus State Supplemental Budget Bill

Chapter 365—The second Capital Projects Bill (bonding bill)

Chapter 366—The second Omnibus Tax Bill

Chapter 368—The Omnibus Game, Fish and Land Policy Bill

The League's IGR staff is compiling the annual document summarizing new laws of interest to cities. We hope to complete this document shortly after the governor has acted on all pending chapters.

If you have immediate questions about any new laws, please feel free to contact the League's IGR staff. For contact information and issue coverage, see the attached staff list.

Questions? Contact Gary Carlson at 651.281.1255 or gcarlson@lmc.org.

Legislative update for city officials at LMC Annual Conference June 13

City officials will participate in a discussion and legislative update on Friday morning, June 13 as part of the 2008 LMC Annual Conference June 11-13 in Rochester. The legislative update starts after a hearty hot breakfast, and begins at 8:30 a.m. on Friday. The hour long session will address city-friendly bills introduced, passed, and vetoed as well as new laws and the all important "bills that did not become law." The dust has not yet settled on the 2008 legislative session and many bills passed by the Legislature are still awaiting the Governor's signature. By June 13 the LMC staff will have reports on all areas of legislation that impacted cities this session. Come with your questions, ideas, and emerging issues as this session is not only the final chapter on the 2008 legislative session, but it is also the kick-off for the 2009 LMC policy adoption process and the first post-session opportunity to raise issues to be discussed before the LMC policy committees this summer. Bring your ideas, your comments, and your city stories.

Conference registration information is online at <http://www.lmc.org/conf/annconf08Home.cfm>.

See you in Rochester!



-FridayFax-

A weekly legislative update from the League of Minnesota Cities

May 23, 2008

Page 2

YOUR LMC LEGISLATIVE STAFF CONTACTS & ISSUE AREAS

Gary Carlson, Intergovernmental Relations Director

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- Aid to cities
- Civil liability
- Insurance
- Pensions and post retirement benefits
- Property tax system
- Public finance

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- Emergency management
- Pension
- Personnel
- Public safety
- Transportation

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- Elections and redistricting
- Housing
- Information policy
- Right-of-way management
- Telecommunications
- Underground locating
- Utility service districts
- Water/wastewater billing

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- State bonding
- Wastewater, drinking water and stormwater

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- General revenue sources for cities
- Housing
- Sustainable development
- Transportation

Jennifer O'Rourke, Intergovernmental Relations Representative

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- Aid to cities
- Economic development/redevelopment
- General government
- General revenue sources for cities public finance
- Liquor and tobacco
- Property tax system
- Tax increment financing

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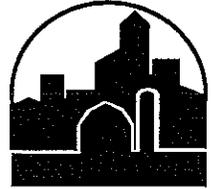
Lynn Peterson | Intergovernmental Relations Assistant
 Tel: (651) 281.1254 | (800) 925-1122 | Fax: (651) 215.4113
lpeterson@lmc.org | www.lmc.org
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5/23/2008

MEMORANDUM



CITY OF WINDOM
444 9th Street
Windom, MN 56101
Phone: 507-831-6129
Fax: 507-831-6127
www.windom-mn.com

TO: City Council
FROM: City Administrator 
DATE: May 28, 2008
RE: Board of Review – Follow –up Informtion

Gail Bondhus, County Assessor, dropped off copies of materials related to the Board of Review meeting that was held on May 12, 2008.

Included in these materials is a copy of the Minnesota Statute on Valuation of Property (273.11) and the Minnesota Department of Revenue “Local Board of Appeal and Equalization Handbook”. These documents provide the basis for the valuations, procedures and appeals. Sections of the materials that Gail thought would be of interest to the Council are noted as shown.

In addition, copies of the letters that were sent to each property owner that addressed the City Council on May 12, 2008 were provided to the City office for our information.

2007 Minnesota Statutes

273.11 VALUATION OF PROPERTY.

Subdivision 1. **Generally.** Except as provided in this section or section 273.17, subdivision 1, all property shall be valued at its market value. The market value as determined pursuant to this section shall be stated such that any amount under \$100 is rounded up to \$100 and any amount exceeding \$100 shall be rounded to the nearest \$100. In estimating and determining such value, the assessor shall not adopt a lower or different standard of value because the same is to serve as a basis of taxation, nor shall the assessor adopt as a criterion of value the price for which such property would sell at a forced sale, or in the aggregate with all the property in the town or district; but the assessor shall value each article or description of property by itself, and at such sum or price as the assessor believes the same to be fairly worth in money. The assessor shall take into account the effect on the market value of property of environmental factors in the vicinity of the property. In assessing any tract or lot of real property, the value of the land, exclusive of structures and improvements, shall be determined, and also the value of all structures and improvements thereon, and the aggregate value of the property, including all structures and improvements, excluding the value of crops growing upon cultivated land. In valuing real property upon which there is a mine or quarry, it shall be valued at such price as such property, including the mine or quarry, would sell for at a fair, voluntary sale, for cash, if the material being mined or quarried is not subject to taxation under section 298.015 and the mine or quarry is not exempt from the general property tax under section 298.25. In valuing real property which is vacant, platted property shall be assessed as provided in subdivision 14. All property, or the use thereof, which is taxable under section 272.01, subdivision 2, or 273.19, shall be valued at the market value of such property and not at the value of a leasehold estate in such property, or at some lesser value than its market value.

Subd. 1a. **Limited market value.** In the case of all property classified as agricultural homestead or nonhomestead, residential homestead or nonhomestead, timber, or noncommercial seasonal residential recreational, the assessor shall compare the value with the taxable portion of the value determined in the preceding assessment.

For assessment years 2004, 2005, and 2006, the amount of the increase shall not exceed the greater of (1) 15 percent of the value in the preceding assessment, or (2) 25 percent of the difference between the current assessment and the preceding assessment.

For assessment year 2007, the amount of the increase shall not exceed the greater of (1) 15 percent of the value in the preceding assessment, or (2) 33 percent of the difference between the current assessment and the preceding assessment.

For assessment year 2008, the amount of the increase shall not exceed the greater of (1) 15 percent of the value in the preceding assessment, or (2) 50 percent of the difference between the current assessment and the preceding assessment.

This limitation shall not apply to increases in value due to improvements. For purposes of this subdivision, the term "assessment" means the value prior to any exclusion under subdivision 16. The provisions of this subdivision shall be in effect through assessment year 2008 as provided in this subdivision.

For purposes of the assessment/sales ratio study conducted under section 127A.48, and the computation of state aids paid under chapters 122A, 123A, 123B, 124D, 125A, 126C, 127A, and 477A, market values and net tax capacities determined under this subdivision and subdivision 16, shall be used.

Subd. 2. [Repealed, 1979 c 303 art 2 s 38]

Subd. 3.[Repealed, 1975 c 437 art 8 s 10]

Subd. 4.[Repealed, 1976 c 345 s 3]

Subd. 5. **Boards of review and equalization.** Notwithstanding any other provision of law to the contrary, the limitation contained in subdivisions 1 and 1a shall also apply to the authority of the local board of review as provided in section 274.01, the county board of equalization as provided in section 274.13, the State Board of Equalization and the commissioner of revenue as provided in sections 270.11, subdivision 1, 270.12, 270C.92, and 270C.94.

Subd. 6. **Solar, wind, methane gas systems.** For purposes of property taxation, the market value of real and personal property installed prior to January 1, 1984, which is a solar, wind, or agriculturally derived methane gas system used as a heating, cooling, or electric power source of a building or structure shall be excluded from the market value of that building or structure if the property is not used to provide energy for sale.

Subd. 6a. **Fire-safety sprinkler systems.** For purposes of property taxation, the market value of automatic fire-safety sprinkler systems installed in existing buildings after January 1, 1992, meeting the standards of the Minnesota Fire Code shall be excluded from the market value of (1) existing multifamily residential real estate containing four or more units and used or held for use by the owner or by the tenants or lessees of the owner as a residence and (2) existing real estate containing four or more contiguous residential units for use by customers of the owner, such as hotels, motels, and lodging houses and (3) existing office buildings or mixed use commercial-residential buildings, in which at least one story capable of occupancy is at least 75 feet above the ground. The market value exclusion under this section shall expire if the property is sold.

Subd. 7.[Repealed, 1984 c 502 art 3 s 36]

Subd. 8. **Limited equity cooperative apartments.** For the purposes of this subdivision, the terms defined in this subdivision have the meanings given them.

A "limited equity cooperative" is a corporation organized under chapter 308A or 308B, which has as its primary purpose the provision of housing and related services to its members which meets one of the following criteria with respect to the income of its members: (1) a minimum of 75 percent of members must have incomes at or less than 90 percent of area median income, (2) a minimum of 40 percent of members must have incomes at or less than 60 percent of area median income, or (3) a minimum of 20 percent of members must have incomes at or less than 50 percent of area median income. For purposes of this clause, "member income" shall mean the income of a member existing at the time the member acquires cooperative membership, and median income shall mean the St. Paul-Minneapolis metropolitan area median income as determined by the United States Department of Housing and Urban Development. It must also meet the following requirements:

- (a) The articles of incorporation set the sale price of occupancy entitling cooperative shares or memberships at no more than a transfer value determined as provided in the articles. That value may not exceed the sum of the following:
- (1) the consideration paid for the membership or shares by the first occupant of the unit, as shown in the records of the corporation;
 - (2) the fair market value, as shown in the records of the corporation, of any improvements to the real property that were installed at the sole expense of the member with the prior approval of the board of directors;
 - (3) accumulated interest, or an inflation allowance not to exceed the greater of a ten percent annual noncompounded increase on the consideration paid for the membership or share by the first occupant of the unit, or the amount that would have been paid on that consideration if interest

had been paid on it at the rate of the percentage increase in the revised Consumer Price Index for All Urban Consumers for the Minneapolis-St. Paul metropolitan area prepared by the United States Department of Labor, provided that the amount determined pursuant to this clause may not exceed \$500 for each year or fraction of a year the membership or share was owned; plus (4) real property capital contributions shown in the records of the corporation to have been paid by the transferor member and previous holders of the same membership, or of separate memberships that had entitled occupancy to the unit of the member involved. These contributions include contributions to a corporate reserve account the use of which is restricted to real property improvements or acquisitions, contributions to the corporation which are used for real property improvements or acquisitions, and the amount of principal amortized by the corporation on its indebtedness due to the financing of real property acquisition or improvement or the averaging of principal paid by the corporation over the term of its real property-related indebtedness.

(b) The articles of incorporation require that the board of directors limit the purchase price of stock or membership interests for new member-occupants or resident shareholders to an amount which does not exceed the transfer value for the membership or stock as defined in clause (a).

(c) The articles of incorporation require that the total distribution out of capital to a member shall not exceed that transfer value.

(d) The articles of incorporation require that upon liquidation of the corporation any assets remaining after retirement of corporate debts and distribution to members will be conveyed to a charitable organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1992, or a public agency.

A "limited equity cooperative apartment" is a dwelling unit owned by a limited equity cooperative.

"Occupancy entitling cooperative share or membership" is the ownership interest in a cooperative organization which entitles the holder to an exclusive right to occupy a dwelling unit owned or leased by the cooperative.

For purposes of taxation, the assessor shall value a unit owned by a limited equity cooperative at the lesser of its market value or the value determined by capitalizing the net operating income of a comparable apartment operated on a rental basis at the capitalization rate used in valuing comparable buildings that are not limited equity cooperatives. If a cooperative fails to operate in accordance with the provisions of clauses (a) to (d), the property shall be subject to additional property taxes in the amount of the difference between the taxes determined in accordance with this subdivision for the last ten years that the property had been assessed pursuant to this subdivision and the amount that would have been paid if the provisions of this subdivision had not applied to it. The additional taxes, plus interest at the rate specified in section 549.09, shall be extended against the property on the tax list for the current year.

Subd. 9. **Condominium property.** Notwithstanding any other provision of law to the contrary, for purposes of property taxation, condominium property shall be valued in accordance with this subdivision.

(a) A structure or building that is initially constructed as condominiums shall be identified as separate units after the filing of a declaration. The market value of the residential units in that structure or building and included in the declaration shall be valued as condominiums.

(b) When 60 percent or more of the residential units in a structure or building being converted to condominiums have been sold as condominiums including those units that the converters retain for their own investment, the market value of the remaining residential units in that structure or building which are included in the declaration shall be valued as condominiums. If not all of the residential units in the structure or building are included in the declaration, the 60

percent factor shall apply to those in the declaration. A separate description shall be recognized when a declaration is filed. For purposes of this clause, "retain" shall mean units that are rented and completed units that are not available for sale.

(c) For purposes of this subdivision, a "sale" is defined as the date when the first written document for the purchase or conveyance of the property is signed, unless that document is revoked.

Subd. 10. [Repealed, 1999 c 243 art 5 s 54]

Subd. 11. **Valuation of restored or preserved wetland.** Wetlands restored by the federal, state, or local government, or by a nonprofit organization, or preserved under the terms of a temporary or perpetual easement by the federal or state government, must be valued by assessors at their wetland value. "Wetland value" in this subdivision means the market value of wetlands in any potential use in which the wetland character is not permanently altered. Wetland value shall not reflect potential uses of the wetland that would violate the terms of any existing conservation easement, or any one-time payment received by the wetland owner under the terms of a state or federal conservation easement. Wetland value shall reflect any potential income consistent with a property's wetland character, including but not limited to lease payments for hunting or other recreational uses. The commissioner of revenue shall issue a bulletin advising assessors of the provisions of this section by October 1, 1991.

For purposes of this subdivision, "wetlands" means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three attributes:

- (1) have a predominance of hydric soils;
- (2) are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
- (3) under normal circumstances support a prevalence of such vegetation.

Subd. 12. **Neighborhood land trusts.** (a) A neighborhood land trust, as defined under chapter 462A, is (i) a community-based nonprofit corporation organized under chapter 317A, which qualifies for tax exempt status under 501(c)(3), or (ii) a "city" as defined in section 462C.02, subdivision 6, which has received funding from the Minnesota housing finance agency for purposes of the neighborhood land trust program. The Minnesota Housing Finance Agency shall set the criteria for neighborhood land trusts.

(b) All occupants of a neighborhood land trust building must have a family income of less than 80 percent of the greater of (1) the state median income, or (2) the area or county median income, as most recently determined by the Department of Housing and Urban Development. Before the neighborhood land trust can rent or sell a unit to an applicant, the neighborhood land trust shall verify to the satisfaction of the administering agency or the city that the family income of each person or family applying for a unit in the neighborhood land trust building is within the income criteria provided in this paragraph. The administering agency or the city shall verify to the satisfaction of the county assessor that the occupant meets the income criteria under this paragraph. The property tax benefits under paragraph (c) shall be granted only to property owned or rented by persons or families within the qualifying income limits. The family income criteria and verification is only necessary at the time of initial occupancy in the property.

(c) A unit which is owned by the occupant and used as a homestead by the occupant qualifies for homestead treatment as class 1a under section 273.13, subdivision 22. A unit which is rented by the occupant and used as a homestead by the occupant shall be class 4a or 4b property, under section 273.13, subdivision 25, whichever is applicable. Any remaining portion of the property

not used for residential purposes shall be classified by the assessor in the appropriate class based upon the use of that portion of the property owned by the neighborhood land trust. The land upon which the building is located shall be assessed at the same class rate as the units within the building, provided that if the building contains some units assessed as class 1a and some units assessed as class 4a or 4b, the market value of the land will be assessed in the same proportions as the value of the building.

Subd. 13. Valuation of income-producing property. Beginning with the 1995 assessment, only accredited assessors or senior accredited assessors or other licensed assessors who have successfully completed at least two income-producing property appraisal courses may value income-producing property for ad valorem tax purposes. "Income-producing property" as used in this subdivision means the taxable property in class 3a and 3b in section 273.13, subdivision 24; class 4a and 4c, except for seasonal recreational property not used for commercial purposes; and class 5 in section 273.13, subdivision 31. "Income-producing property" includes any property in class 4e in section 273.13, subdivision 25, that would be income-producing property under the definition in this subdivision if it were not substandard. "Income-producing property appraisal course" as used in this subdivision means a course of study of approximately 30 instructional hours, with a final comprehensive test. An assessor must successfully complete the final examination for each of the two required courses. The course must be approved by the board of assessors.

Subd. 14. Vacant land platted before August 1, 2001. (a) All land platted before August 1, 2001, and not improved with a permanent structure, shall be assessed as provided in this subdivision. The assessor shall determine the market value of each individual lot based upon the highest and best use of the property as unplatted land. In establishing the market value of the property, the assessor shall consider the sale price of the unplatted land or comparable sales of unplatted land of similar use and similar availability of public utilities.

(b) The market value determined in paragraph (a) shall be increased as follows for each of the three assessment years immediately following the final approval of the plat: one-third of the difference between the property's unplatted market value as determined under paragraph (a) and the market value based upon the highest and best use of the land as platted property shall be added in each of the three subsequent assessment years.

(c) Any increase in market value after the first assessment year following the plat's final approval shall be added to the property's market value in the next assessment year. Notwithstanding paragraph (b), if construction begins before the expiration of the three years in paragraph (b), that lot shall be eligible for revaluation in the next assessment year. The market value of a platted lot determined under this subdivision shall not exceed the value of that lot based upon the highest and best use of the property as platted land.

Subd. 14a. Vacant land platted on or after August 1, 2001; located in metropolitan counties. (a) All land platted on or after August 1, 2001, located in a metropolitan county, and not improved with a permanent structure, shall be assessed as provided in this subdivision. The assessor shall determine the market value of each individual lot based upon the highest and best use of the property as unplatted land. In establishing the market value of the property, the assessor shall consider the sale price of the unplatted land or comparable sales of unplatted land of similar use and similar availability of public utilities.

(b) The market value determined in paragraph (a) shall be increased as follows for each of the three assessment years immediately following the final approval of the plat: one-third of the difference between the property's unplatted market value as determined under paragraph (a) and the market value based upon the highest and best use of the land as platted property shall be added

in each of the three subsequent assessment years.

(c) Any increase in market value after the first assessment year following the plat's final approval shall be added to the property's market value in the next assessment year. Notwithstanding paragraph (b), if construction begins before the expiration of the three years in paragraph (b), that lot shall be eligible for revaluation in the next assessment year. The market value of a platted lot determined under this subdivision shall not exceed the value of that lot based upon the highest and best use of the property as platted land.

(d) For purposes of this section, "metropolitan county" means the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Subd. 14b. **Vacant land platted on or after August 1, 2001; located in nonmetropolitan counties.** (a) All land platted on or after August 1, 2001, located in a nonmetropolitan county, and not improved with a permanent structure, shall be assessed as provided in this subdivision. The assessor shall determine the market value of each individual lot based upon the highest and best use of the property as unplatted land. In establishing the market value of the property, the assessor shall consider the sale price of the unplatted land or comparable sales of unplatted land of similar use and similar availability of public utilities.

(b) The market value determined in paragraph (a) shall be increased as follows for each of the seven assessment years immediately following the final approval of the plat: one-seventh of the difference between the property's unplatted market value as determined under paragraph (a) and the market value based upon the highest and best use of the land as platted property shall be added in each of the seven subsequent assessment years.

(c) Any increase in market value after the first assessment year following the plat's final approval shall be added to the property's market value in the next assessment year. Notwithstanding paragraph (b), if construction begins before the expiration of the seven years in paragraph (b), that lot shall be eligible for revaluation in the next assessment year. The market value of a platted lot determined under this subdivision shall not exceed the value of that lot based upon the highest and best use of the property as platted land.

Subd. 15. **Vacant hospitals.** In valuing a hospital, as defined in section 144.50, subdivision 2, that is located outside of a metropolitan county, as defined in section 473.121, subdivision 4, and that on the date of sale is vacant and not used for hospital purposes or for any other purpose, the assessor's estimated market value for taxes levied in the year of the sale shall be no greater than the sales price of the property, including both the land and the buildings, as adjusted for term of financing. If the sale is made later than December 15, the market value as determined under this subdivision shall be used for taxes levied in the following year. This subdivision applies only if the sales price of the property was determined under an arm's-length transaction.

Subd. 16. **Valuation exclusion for certain improvements.** Improvements to homestead property made before January 2, 2003, shall be fully or partially excluded from the value of the property for assessment purposes provided that (1) the house is at least 45 years old at the time of the improvement and (2) the assessor's estimated market value of the house on January 2 of the current year is equal to or less than \$400,000.

For purposes of determining this eligibility, "house" means land and buildings.

The age of a residence is the number of years since the original year of its construction.

In the case of a residence that is relocated, the relocation must be from a location within the state and the only improvements eligible for exclusion under this subdivision are (1) those for which building permits were issued to the homeowner after the residence was relocated to its present site, and (2) those undertaken during or after the year the residence is initially occupied by the homeowner, excluding any market value increase relating to basic improvements that are

necessary to install the residence on its foundation and connect it to utilities at its present site. In the case of an owner-occupied duplex or triplex, the improvement is eligible regardless of which portion of the property was improved.

If the property lies in a jurisdiction which is subject to a building permit process, a building permit must have been issued prior to commencement of the improvement. The improvements for a single project or in any one year must add at least \$5,000 to the value of the property to be eligible for exclusion under this subdivision. Only improvements to the structure which is the residence of the qualifying homesteader or construction of or improvements to no more than one two-car garage per residence qualify for the provisions of this subdivision. If an improvement was begun between January 2, 1992, and January 2, 1993, any value added from that improvement for the January 1994 and subsequent assessments shall qualify for exclusion under this subdivision provided that a building permit was obtained for the improvement between January 2, 1992, and January 2, 1993. Whenever a building permit is issued for property currently classified as homestead, the issuing jurisdiction shall notify the property owner of the possibility of valuation exclusion under this subdivision. The assessor shall require an application, including documentation of the age of the house from the owner, if unknown by the assessor. The application may be filed subsequent to the date of the building permit provided that the application must be filed within three years of the date the building permit was issued for the improvement. If the property lies in a jurisdiction which is not subject to a building permit process, the application must be filed within three years of the date the improvement was made. The assessor may require proof from the taxpayer of the date the improvement was made. Applications must be received prior to July 1 of any year in order to be effective for taxes payable in the following year.

No exclusion for an improvement may be granted by a local board of review or county board of equalization, and no abatement of the taxes for qualifying improvements may be granted by the county board unless (1) a building permit was issued prior to the commencement of the improvement if the jurisdiction requires a building permit, and (2) an application was completed. The assessor shall note the qualifying value of each improvement on the property's record, and the sum of those amounts shall be subtracted from the value of the property in each year for ten years after the improvement has been made. After ten years the amount of the qualifying value shall be added back as follows:

- (1) 50 percent in the two subsequent assessment years if the qualifying value is equal to or less than \$10,000 market value; or
- (2) 20 percent in the five subsequent assessment years if the qualifying value is greater than \$10,000 market value.

If an application is filed after the first assessment date at which an improvement could have been subject to the valuation exclusion under this subdivision, the ten-year period during which the value is subject to exclusion is reduced by the number of years that have elapsed since the property would have qualified initially. The valuation exclusion shall terminate whenever (1) the property is sold, or (2) the property is reclassified to a class which does not qualify for treatment under this subdivision. Improvements made by an occupant who is the purchaser of the property under a conditional purchase contract do not qualify under this subdivision unless the seller of the property is a governmental entity. The qualifying value of the property shall be computed based upon the increase from that structure's market value as of January 2 preceding the acquisition of the property by the governmental entity.

The total qualifying value for a homestead may not exceed \$50,000. The total qualifying value for a homestead with a house that is less than 70 years old may not exceed \$25,000.

The term "qualifying value" means the increase in estimated market value resulting from the

improvement if the improvement occurs when the house is at least 70 years old, or one-half of the increase in estimated market value resulting from the improvement otherwise. The \$25,000 and \$50,000 maximum qualifying value under this subdivision may result from multiple improvements to the homestead.

If 50 percent or more of the square footage of a structure is voluntarily razed or removed, the valuation increase attributable to any subsequent improvements to the remaining structure does not qualify for the exclusion under this subdivision. If a structure is unintentionally or accidentally destroyed by a natural disaster, the property is eligible for an exclusion under this subdivision provided that the structure was not completely destroyed. The qualifying value on property destroyed by a natural disaster shall be computed based upon the increase from that structure's market value as determined on January 2 of the year in which the disaster occurred. A property receiving benefits under the homestead disaster provisions under sections 273.1231 to 273.1235 is not disqualified from receiving an exclusion under this subdivision. If any combination of improvements made to a structure after January 1, 1993, increases the size of the structure by 100 percent or more, the valuation increase attributable to the portion of the improvement that causes the structure's size to exceed 100 percent does not qualify for exclusion under this subdivision.

Subd. 17. Valuation of contaminated properties. (a) In determining the market value of property containing contaminants, the assessor shall reduce the market value of the property by the contamination value of the property. The contamination value is the amount of the market value reduction that results from the presence of the contaminants, but it may not exceed the cost of a reasonable response action plan or asbestos abatement plan or management program for the property.

(b) For purposes of this subdivision, "asbestos abatement plan," "contaminants," and "response action plan" have the meanings as used in sections 270.91 and 270.92.

Subd. 18. Disclosure of valuation exclusion. No seller of real property shall sell or offer for sale property that, for purposes of property taxation, has an exclusion from market value for home improvements under subdivision 16, without disclosing to the buyer the existence of the excluded valuation and informing the buyer that the exclusion will end upon the sale of the property and that the property's estimated market value for property tax purposes will increase accordingly.

Subd. 19. Valuation exclusion for improvements to certain business property. Property classified under Minnesota Statutes, section 273.13, subdivision 24, which is eligible for the preferred class rate on the market value up to \$150,000, shall qualify for a valuation exclusion for assessment purposes, provided all of the following conditions are met:

- (1) the building must be at least 50 years old at the time of the improvement or damaged by the 1997 floods;
- (2) the building must be located in a city or town with a population of 10,000 or less that is located outside the seven-county metropolitan area, as defined in section 473.121, subdivision 2;
- (3) the total estimated market value of the land and buildings must be \$100,000 or less prior to the improvement and prior to the damage caused by the 1997 floods;
- (4) the current year's estimated market value of the property must be equal to or less than the property's estimated market value in each of the two previous years' assessments;
- (5) a building permit must have been issued prior to the commencement of the improvement, or if the building is located in a city or town which does not have a building permit process, the property owner must notify the assessor prior to the commencement of the improvement;
- (6) the property, including its improvements, has received no public assistance, grants or financing except, that in the case of property damaged by the 1997 floods, the property is eligible to the extent that the flood losses are not reimbursed by insurance or any public assistance,

grants, or financing;

(7) the property is not receiving a property tax abatement under section 469.1813; and

(8) the improvements are made after the effective date of Laws 1997, chapter 231, and prior to January 1, 1999.

The assessor shall estimate the market value of the building in the assessment year immediately following the year that (1) the building permit was taken out, or (2) the taxpayer notified the assessor that an improvement was to be made. If the estimated market value of the building has increased over the prior year's assessment, the assessor shall note the amount of the increase on the property's record, and that amount shall be subtracted from the value of the property in each year for five years after the improvement has been made, at which time an amount equal to 20 percent of the excluded value shall be added back in each of the five subsequent assessment years.

For any property, there can be no more than two improvements qualifying for exclusion under this subdivision. The maximum amount of value that can be excluded from any property under this subdivision is \$50,000.

The assessor shall require an application, including documentation of the age of the building from the owner, if unknown by the assessor. Applications must be received prior to July 1 of any year in order to be effective for taxes payable in the following year.

For purposes of this subdivision, "population" has the same meaning given in Minnesota Statutes, section 477A.011, subdivision 3.

Subd. 20. Valuation exclusion for improvements to certain business property. Property classified under section 273.13, subdivision 24, qualifies for a valuation exclusion for assessment purposes, provided all of the following conditions are met:

(1) the building must have been damaged by the 2002 floods;

(2) the building must be located in a city or town with a population of 10,000 or less that is located in a county in the area included in DR-1419;

(3) the total estimated market value of the land and buildings must be \$150,000 or less for assessment year 2002;

(4) a building permit must have been issued prior to the commencement of the improvement, or if the building is located in a city or town which does not have a building permit process, the property owner must notify the assessor prior to the commencement of the improvement;

(5) the property is not receiving a property tax abatement under section 469.1813; and

(6) the improvements are made before January 1, 2004.

The assessor shall estimate the market value of the building in the assessment year immediately following the year that (1) the building permit was taken out, or (2) the taxpayer notified the assessor that an improvement was to be made. If the estimated market value of the building has increased over the 2002 assessment before any reassessment due to flood damage, the assessor shall note the amount of the increase on the property's record, and that amount shall be subtracted from the value of the property in each year for five years after the improvement has been made. In each of the next five subsequent assessment years, an amount equal to 20 percent of the value excluded in the fifth year for that improvement shall be added back.

The maximum amount of value that can be excluded for all improvements to any property under this subdivision is \$50,000.

The assessor shall require an application. Applications must be received by December 31, 2002, or December 31, 2003, in order to be effective for taxes payable in the following year.

For purposes of this subdivision, "population" has the meaning given in section 477A.011, subdivision 3.

Subd. 21. Valuation reduction for homestead property damaged by mold. (a) The owner of homestead property may apply in writing to the assessor for a reduction in the market value of the property that has been damaged by mold. The notification must include the estimated cost to cure the mold condition provided by a licensed contractor. The estimated cost must be at least \$20,000. Upon completion of the work, the owner must file an application on a form prescribed by the commissioner of revenue, accompanied by a copy of the contractor's estimate.

(b) If the conditions in paragraph (a) are met, the county board must grant a reduction in the market value of the homestead dwelling equal to the estimated cost to cure the mold condition. If a property owner applies for a reduction under this subdivision between January 1 and June 30 of any year, the reduction applies for taxes payable in the following year. If a property owner applies for a reduction under this subdivision between July 1 and December 31 of any year, the reduction applies for taxes payable in the second following year.

(c) A denial of a reduction under this section by the county board may be appealed to the tax court. If the county board takes no action on the application within 90 days after its receipt, it is considered an approval.

(d) For purposes of subdivision 1a, in the assessment year following the assessment year when a valuation reduction has occurred under this section, any market value added by the assessor to the property resulting from curing the mold condition must be considered an increase in value due to new construction.

Subd. 22. Lead hazard market value reduction. Owners of property classified as class 1a, 1b, 1c, 2a, 4b, 4bb, or 4d under section 273.13 may apply for a lead hazard valuation reduction, provided that the property is located in a city which has authorized valuation reductions under this subdivision. A city that authorizes reductions under this subdivision must establish guidelines for qualifying lead hazard reduction projects and must designate an agency within the city to issue certificates of completion of qualifying projects. For purposes of this subdivision, "lead hazard reduction" has the same meaning as in section 144.9501, subdivision 17.

The property owner must obtain a certificate from the agency stating (1) that the project has been completed and (2) the total cost incurred by the owner, which must be at least \$3,000. Only projects originating after July 1, 2005, and completed before July 1, 2010, qualify for a reduction under this subdivision. The property owner shall apply for the valuation reduction to the assessor on a form prescribed by the assessor accompanied by a copy of the certificate of completion from the agency.

A qualifying property is eligible for a one-year valuation reduction equal to the actual cost incurred, to a maximum of \$20,000. If a property owner applies to the assessor for the valuation reduction under this subdivision between January 1 and June 30 of any year, the reduction applies for taxes payable in the following year. If a property owner applies to the assessor for the valuation reduction under this subdivision between July 1 and December 31, the reduction applies for taxes payable in the second following year. For purposes of subdivision 1a, any additional market value resulting from the lead hazard removal must be considered an increase in value due to new construction.

Subd. 23. First tier valuation limit; agricultural homestead property. (a) Beginning with assessment year 2006, the commissioner of revenue shall annually certify the first tier limit for agricultural homestead property as the product of (i) \$600,000, and (ii) the ratio of the statewide average taxable market value of agricultural property per acre of deeded farm land in the preceding assessment year to the statewide average taxable market value of agricultural property per acre of deeded farm land for assessment year 2004. The limit shall be rounded to the nearest \$10,000.

(b) For the purposes of this subdivision, "agricultural property" means all class 2 property

under section 273.13, subdivision 23, except for (1) timberland, (2) a landing area or public access area of a privately owned public use airport, and (3) property consisting of the house, garage, and immediately surrounding one acre of land of an agricultural homestead.

(c) The commissioner shall certify the limit by January 2 of each assessment year, except that for assessment year 2006 the commissioner shall certify the limit by June 1, 2006.

History: (1992) RL s 810; Ex1967 c 32 art 7 s 3; 1969 c 574 s 1; 1969 c 990 s 1; 1971 c 427 s 1; 1971 c 489 s 1; 1971 c 831 s 1; 1973 c 582 s 3; 1973 c 650 art 23 s 1-4; 1974 c 556 s 14; 1975 c 437 art 8 s 4-6; 1976 c 2 s 93; 1976 c 345 s 1; 1977 c 423 art 4 s 4; 1978 c 786 s 10,11; 1979 c 303 art 2 s 7; 1Sp1981 c 1 art 2 s 3,4; 1Sp1981 c 4 art 2 s 50; 1982 c 424 s 61,62; 1982 c 523 art 19 s 2; art 21 s 1; 1983 c 222 s 7; 1983 c 342 art 2 s 5-7; 1984 c 502 art 3 s 6; 1Sp1985 c 14 art 4 s 35; 1986 c 444; 1Sp1986 c 1 art 4 s 12; 1987 c 268 art 5 s 1; art 7 s 32; 1987 c 384 art 3 s 10; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20; 1989 c 356 s 13; 1990 c 480 art 7 s 5; 1990 c 604 art 3 s 9; 1991 c 291 art 1 s 12; 1991 c 354 art 10 s 7,8; 1992 c 511 art 2 s 11,12; 1992 c 556 s 2,3; 1992 c 597 s 14; 1993 c 375 art 5 s 8-13; art 8 s 14; art 11 s 3; art 12 s 9; 1994 c 416 art 1 s 13; 1994 c 587 art 5 s 3-5; 1995 c 1 s 2; 1995 c 264 art 16 s 9; 1996 c 471 art 3 s 5; 1997 c 231 art 2 s 10,11,52; art 8 s 2; 1997 c 251 s 16; 1998 c 397 art 11 s 3; 1999 c 243 art 5 s 6,7; 1Sp2001 c 5 art 3 s 23-26; 1Sp2002 c 1 s 14; 2003 c 127 art 5 s 15; 1Sp2003 c 21 art 4 s 3; 2005 c 151 art 2 s 6; art 5 s 16; 1Sp2005 c 3 art 1 s 8-10; 2006 c 259 art 4 s 11; 1Sp2007 c 2 art 3 s 11

MINNESOTA • REVENUE



Local Board of Appeal and Equalization Handbook



*This handbook was created to satisfy the requirement under
Minnesota Statutes, Section 274.014, subdivision 1.*

November 2004.



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Note: This handbook is designed to provide information to city and town boards or special boards serving as the Local Board of Appeal and Equalization. This handbook mentions local, city and county assessors. The specific responsibilities of the local, city and county assessor may differ from one jurisdiction to the next. Not all jurisdictions have a local assessor. For example, counties with a true county assessing system (all assessments are done by the county) will not have a local assessor. In counties having a city of the first class, the powers and duties of the county assessor within such city shall be performed by the duly appointed city assessor. In all other cities having a population of 30,000 persons or more, according to the last federal census (except in counties having a county assessor prior to January 1, 1967), the powers and duties of the county assessor within these cities will be performed by a duly appointed city assessor. The county assessor will, however, retain the supervisory duties contained in M.S. 273.061, Subdivision 8. For example, the county assessor may provide sales information for the local boards in the entire county, or a city assessor may be responsible for providing the information for the local board in a city that has an appointed city assessor. If the local board has questions about the division of assessor duties in your jurisdiction, please contact your county assessor for clarification.



Introduction

Purpose of the local board

The purpose of the Local Board of Appeal and Equalization is to provide a fair and objective forum for property owners to appeal their valuation or classification.

The goal of the Local Board of Appeal and Equalization should be to attempt to address property owners' issues efficiently, fairly and objectively.

One of the most important duties placed by law upon the governing body of a township or city is to serve as the Local Board of Appeal and Equalization. Effective actions taken by the local board may potentially make a direct contribution to attaining assessment equality.

Always keep in mind that any changes made by the board must be substantiated by facts. Any value reductions must be justified because they have the effect of shifting the tax burden to other property in the jurisdiction.

A

Training for Local Boards of Appeal and Equalization

Legislation enacted in the 2003 session requires that there be at least one member at each meeting of a Local Board of Appeal and Equalization (beginning with the 2006 local boards) who has attended an appeals and equalization course developed or approved by the Commissioner of Revenue within the last four years.

In order to meet the requirement for the 2006 local boards, at least one member must attend the course by January 1, 2006. In subsequent years, each local board meeting must have one member who has attended the course within the last four years.

The impetus for the legislation

The legislation was enacted as a response to complaints that were directed to the Governor, Legislature and Department of Revenue. The legislature determined that training was needed to address the procedural shortfalls of some local boards. This training will provide information and education for local board members that will make the process more efficient and result in a better overall experience for both property owners and local board members.

Does "training" sound familiar?

Training for Local Boards of Appeal and Equalization is not a new concept. From 1947 to 1979, Local Boards of Appeal and Equalization (then referred to as local boards of review) were required by law to attend an instructional meeting at the county. In 1979, Minnesota Statutes, Section 273.03, subdivision 1 read as follows:

"The assessors and at least one member of each local board of review shall meet at the office of the county auditor on a day to be fixed by the commissioner of taxation for the purpose of receiving instructions as to their duties under the laws of the state."

While training or instructional meetings may not be a "new" idea, the 2003 legislature determined that training for Local Boards of Appeal and Equalization was necessary to explain and clarify the role and duties of the local board to help ensure that property owners receive a fair and impartial review of their valuation and classification.

The appeals and equalization course details the responsibilities, procedures and requirements of the Local Board of Appeal and Equalization. The legislation also requires the Commissioner of Revenue to develop a handbook to be reviewed during this course. This handbook includes:

- The role of the local board in the assessment process;
- Legal and policy reasons for fair and impartial appeal and equalization hearings;
- Meeting procedures that foster fair and impartial assessment reviews and best practices recommendations;
- Quorum requirements for local boards; and
- Explanations of alternate methods of appeal.

Compliance requirements

All cities and towns must certify to the county assessor by December 1, 2006 (and each year following) that:

- At least one voting member at each local board meeting has attended the appeals and equalization course within the last four years; and
- A quorum was present at each local board meeting in the prior year.

Failure to comply

Any city or town that fails to provide proof of compliance to the county assessor by December 1, 2006 (and each year following) is deemed to transfer its powers to the County Board of Appeal and Equalization for the following assessment year.

The Notice of Valuation and Classification must notify property owners when the Board of Appeal and Equalization for a city or town has been transferred to the county for failure to comply with these requirements. Instead of a Local Board of Appeal and Equalization meeting, property owners should be provided with a procedure for reviewing their assessments, such as open book meetings, prior to the meeting of the County Board of Appeal and Equalization. This alternate review process typically will take place in April and May.

A local board whose powers are transferred to the county for failing to meet these requirements may be reinstated by resolution of the governing body of the city or town and upon proof that one of the members of its Local Board of Appeal and Equalization has attended the appeals and equalization course. The resolution and proof must be provided to the county assessor by December 1 to be effective for the following assessment year.

Note: The citation for the appeals and equalization course and meeting requirements for local boards is Minnesota Statutes, Section 274.014.

1 Role of the local board in the assessment process

The Local Board of Appeal and Equalization has the authority to change the valuation or classification of a property for the current assessment year. Taxes or prior year assessments are not within the jurisdiction of the local board.

In order to make an informed decision on these two items, it is important to understand them. We will look at the definition of market value and explain how classifications are determined.

Market value

State law requires that all property shall be valued at its market value (Minnesota Statutes, Section 273.11, subdivision 1).

Minnesota Statutes, Section 272.03, subdivision 8 defines "market value" as follows:

"Market value" means the usual selling price at the place where the property to which the term is applied shall be at the time of assessment; being the price which could be obtained at a private sale or an auction sale, if it is determined by the assessor that the price from the auction sale represents an arm's-length transaction. The price obtained at a forced sale shall not be considered."

Many professional appraiser/assessor organizations have a more detailed definition of market value. The elements of these definitions can be used to clarify the statutory definition.

The definition of market value usually implies the consummation of a sale as of a specific date under the following conditions:

- The buyer and seller are typically motivated;
- Both parties are well informed or well advised and both are acting in what is considered to be their own best interest;
- A reasonable time is allowed for exposure in the open market;
- Payment is made in cash or its equivalent;
- Financing, if any, is on terms generally available in the community on the specified date and typical for the property type in its locale; and
- The price represents a normal consideration for the property sold unaffected by special financing amounts and/or terms, services, fees, costs or credits incurred in the transaction.

In other words, market value is the price that would tend to prevail under typical, normal competitive open market conditions.

Market value

The price that would tend to prevail under typical, normal competitive open market conditions.

Minnesota Statutes, Section 273.11, subdivision 1 further states:

"In estimating and determining such value, the assessor shall not adopt a lower or different standard of value because the same is to serve as a basis of taxation, nor shall the assessor adopt as a criterion of value the price for which such property would sell at a forced sale, or in the aggregate with all the property in the town or district; but the assessor shall value each article or description of property by itself, and at such sum or price as the assessor believes the same to be fairly worth in money."

[The law provides that all property **must** be valued at market value, not **may** be valued at market value. This means that factors other than market value issues (such as personalities or politics) should not affect the market value determined by the assessor. Non-market value factors also should not affect the action of the Local Board of Appeal and Equalization.] ★

Estimated market value

The value determined by the assessor as the price the property would likely sell for on the open market is called the estimated market value (EMV). This value is determined on the assessment date, January 2 of each year.

There are also two other types of market value used for property tax purposes: limited market value and taxable market value. **The EMV for the current assessment year is the only value property owners may appeal to the local board.**

Limited market value

Limited market value (LMV) is a statutory calculation that limits how much the taxable value of certain properties can increase from year to year. Under current law, LMV is scheduled to sunset after assessment year 2006.

For assessment year 2005, the value is limited to the greater of: 1) 15 percent increase over last year's LMV or 2) 33 percent of the difference between this year's EMV and last year's LMV.

For assessment year 2006, the value is limited to the greater of: 1) 15 percent increase over last year's LMV or 2) 50 percent of the difference between this year's EMV and last year's LMV.

LMV only applies to agricultural, residential, timberland, and noncommercial seasonal residential recreational (cabin) property. New improvements are not subject to LMV.

The local board cannot change the LMV of a property. The only value that the local board can review is the EMV for the current assessment year.

Taxable market value

Taxable market value (TMV) is the value that property taxes are actually based on, after all reductions, limitations, exemptions and deferrals.

The local board cannot change the TMV of a property. The only value the local board has the authority to change is the EMV for the current year. Changing the EMV may ultimately change the TMV, but it is important to note that there can be instances where the board raises or lowers the EMV, and the TMV remains the same.

The example below illustrates how some value changes may not affect LMV or TMV.

EMV changes that do not affect LMV or TMV						
	2004 value	2005 value (before local board)	If the local board decreases the value by \$10,000	Resulting values for 2005	If the local board increases the value by \$10,000	Resulting values for 2005
EMV	\$145,800	\$160,800		\$150,800		\$170,800
LMV	\$118,000	\$135,700		\$135,700		\$135,700
TMV	\$118,000	\$135,700		\$135,700		\$135,700

Classification

In Minnesota, property is classified according to its use on the assessment date (January 2 of each year). If the property is not currently being used, it is classified according to its most probable, highest and best use.

Property owners do not get to choose or request how they want their property to be classified. It is the assessor's job to classify property, consistent with Minnesota Statutes, according to its current use or its most probable, highest and best use.

When determining the most probable, highest and best use for a property that is not being used, zoning may be an influencing factor in the classification of the property; however, it is not the sole factor.

Classification

The assessor assigns a statutorily-defined classification to all property based upon the use of the property on January 2 of each year. Examples of Minnesota property classes include residential, agricultural, commercial-industrial, apartment and seasonal residential recreational.

All real property that is not improved with a structure also must be classified according to its current use or its highest and best use permitted under the local zoning ordinance if there is no identifiable current use. If zoning permits more than one use, the land must be classified according to the highest and best use permitted. If no such zoning ordinance exists, the assessor shall consider the most likely potential use of the unimproved land based upon the use of surrounding land or land in proximity to the unimproved land.

Property classifications are defined in Minnesota Statutes. Examples of classifications include residential homestead, residential non-homestead, apartment, commercial and agricultural.

The board can change the classification for the current assessment year of any property which in the board's opinion is not properly classified. The classification must be based on use, and in order for the board to change the classification, the owner must present evidence that the property is used in a manner consistent with the classification he/she is seeking.

For example, the assessor classifies a property as residential. The owner seeks the agricultural classification. In order for the board to change the classification to agricultural, the owner must prove that the property is used agriculturally and meets the statutory requirements of the agricultural class.

Highest and best use

A principle of appraisal and assessment requiring that each property be appraised as though it were being put to its most profitable use (highest possible present net worth), given probable legal, physical, and financial constraints.

Glossary for Property Appraisal and Assessment, International Association of Assessing Officers, 1997.

It is important to remember that use and not zoning is the key factor in determining the classification of a property. For example, a property owner has a parcel that is used as an auto repair shop. The assessor has the property classified as commercial. The property is zoned agricultural so the owner is seeking the agricultural classification. Classification is based on use. Since the property is used as an auto repair shop, it is properly classified as commercial. Therefore, the board must vote to uphold the commercial classification.

Split-class property

A property can have more than one property tax classification if it has more than one use. Such properties are called split-class properties. If this is the case, the assessor will classify the different uses accordingly. For example, when an owner-occupied farm also has a structure that is used as a commercial repair shop for farm equipment, the property is split classified agricultural homestead and commercial.

Overview of the assessment process

Assessor estimates value

The assessor determines the approximate selling price (or EMV) for each taxable parcel based on the conditions of the market on January 2 of each year.

The assessor is required by law to view each property at least once every five years. However, **even if the assessor did not physically visit a property for that assessment year, the property is subject to valuation changes to reflect market conditions.** The assessor is required to estimate the market value as of January 2 of each year to reflect current market conditions.

When the assessor views the interior of a property, he/she can make a more accurate assessment and eliminate any guesswork. The assessor bases his/her assessment on multiple factors, including size, age, condition, quality of construction and other features such as fireplaces, etc. The assessor compares the property to actual sales of similar properties in the area to determine the EMV of a property.

Three approaches to value

The assessor applies one or more of the three approaches to value:

- Sales comparison approach;
- Cost approach; and/or
- Income approach.

The assessor will consider all approaches to value, but one approach may be better suited than the others for estimating the value of a particular property. In some cases, one or more approaches may not be applicable.

Sales comparison approach: This approach is based on the reasoning that the value of a property is related to the sale prices of similar properties in the same market.

Using this approach, the assessor identifies similar properties that have recently sold and analyzes the differences between the subject and the comparable properties. The sale price for each comparable sale is adjusted to reflect the differences (i.e. the subject property has three bathrooms and the comparable property has two bathrooms, so the sale price of the comparable property is adjusted upward to make it more similar to the subject property). The assessor then estimates the value based on the analysis of the comparable sales.

The sales comparison approach is applicable when there is sufficient sales data available for analysis. This approach is most often used for residential properties. It is the most common and preferred method for valuing vacant land when comparable sales data is available. The sales comparison approach is not applicable when comparable sales are limited or unavailable.

Cost approach: This approach is based on the principle of substitution which means that an informed buyer will not pay more for a property than it would cost to build an acceptable substitute with comparable utility.

Using the cost approach, the assessor calculates market value by estimating the current cost of replacing a structure with one having comparable utility minus depreciation plus the value of the land.

The cost approach is most reliable when valuing new or relatively new properties because the depreciation is minimal. Estimating the amount of depreciation can be difficult making the cost approach less reliable when valuing older properties. The cost approach also can be useful when valuing structures that are not frequently exchanged in the market.

Income approach: This approach is based on the reasoning that the value of the property is directly related to its ability to produce income. The property value is measured in relation to anticipated future benefits derived from ownership of the property.

Using this approach, the assessor reviews income and expense information for the subject property and estimates the market value of the property based upon the income stream projected to be derived from the property.

This approach has limited applicability because it is only appropriate for income-producing properties such as commercial, industrial and apartments. The income approach is generally the primary approach for valuing income-producing properties.

Sales ratios

Assessors analyze the sales in a community in order to understand local market trends. Whenever real estate is sold for more than \$1,000, a certificate of real estate value (CRV) must be filed in the county in which the property is located. The assessor uses the CRVs to analyze actual sales of property and to complete sales ratio studies for each community and for each type of property. The ratio is determined by dividing the EMV by the sale price. The assessor uses the sales as a guide to estimate what similar properties would likely sell for on the open market.

The assessor examines the property and the conditions and terms of the sale as indicated on the CRV to determine if the sale reflects normal conditions. It is important to remember that one sale, taken by itself, does not necessarily reflect the actual real estate market in a jurisdiction. The assessor needs to group all sales by type (residential/seasonal, agricultural, commercial, etc.). Once the grouping is complete, the assessor arrays all of the grouped sales by ratio from the highest to the lowest. The median (center) ratio in this array is selected as being representative of the typical level of assessment for the jurisdiction.

To make matters more complicated, not every type of property in every jurisdiction has enough sales in the sales period to provide an accurate reflection of the level of assessment. The Department of Revenue has determined that a minimum of six sales in a jurisdiction are required for the median ratio to be reflective of actual assessment levels. This does not mean that the assessor is relieved of his/her responsibility to value property at its market value. It simply means that the process of establishing an accurate market value estimate becomes more subjective. There are some jurisdictions that never have enough sales – this is particularly true in the case of small-town commercial properties. In these instances, the assessor may examine sales over a protracted period of time or borrow sales from other similar jurisdictions to help measure the level of the assessment.

In addition to the sales ratio study conducted by the assessor, the Department of Revenue conducts a similar independent sales ratio study for the jurisdiction to monitor how close the median ratio is to the required level of assessment. The Department of Revenue's sales ratio studies should be the same or similar to the studies conducted by the assessor.

State Board of Equalization

The required level of assessment is between 90 and 105 percent. If the sales ratio study indicates that the median ratio of EMVs to the selling prices is below 90 percent or above 105 percent, the Commissioner of Revenue, acting as the State Board of Equalization, will increase or decrease values to bring about equalization. State Board orders are usually on a county-, city-, or township-wide basis for a particular classification of property. All State Board orders must be implemented by the county, and the changes are made to the current assessment year.

The equalization process is designed not only to equalize values on a county-, city-, and township-wide basis but also to equalize values across county lines to ensure a fair valuation process across taxing districts, county lines, and by property type. State Board orders are implemented only after a review of values and sales ratios, and after discussions with the county assessors in the county affected by the State Board orders, county assessors in adjacent counties, and the Commissioner of Revenue.

Assessor determines classification

Along with estimating the market value of each property, the assessor must determine the classification, or use, of each parcel of property. Property classifications are defined in Minnesota Statutes, and the assessor classifies the property based on its use as of January 2 of each year. Examples of classifications include residential homestead, residential non-homestead, apartment, commercial and agricultural.

Notice of Valuation and Classification

The assessor notifies taxpayers of their value and classification each year. The notice must be mailed at least 10 days prior to the Local Board of Appeal and Equalization meeting or 10 days prior to the open book meeting (generally, this means that the notices are mailed in February or March of each year).

Appealing the valuation or classification

At this point, the property owner can appeal the EMV and/or classification if he/she feels that the property is:

- classified improperly;
- valued at an amount higher than they could sell the property for; and/or
- valued at a level different from similar properties in the area.

The property owner should first contact the assessor's office to discuss questions or concerns.

Issues often can be resolved at this level. If questions or concerns are not resolved after talking with the assessor, formal appeal options are available:

- Property owners may appeal to the Local Board of Appeal and Equalization (some jurisdictions that have transferred the local board duties to the county will have open book meetings instead of local board meetings);
- If the property owner is not satisfied with the local board's decision (or the outcome of the open book meeting), he/she may appeal to the County Board of Appeal and Equalization; and/or
- The property owner may appeal to Tax Court.

The Notice of Valuation and Classification must provide the property owner with the date, time and location of the Local and County Boards of Appeal and Equalization.

Local Board Meeting

Who must attend the meeting

Per Minnesota Statutes, Section 274.01, subdivision 1, paragraph a, the town board of a town or the council or other governing body of a city is the Local Board of Appeal and Equalization, except in the following situations:

- Cities whose charters provide for a board of equalization;
- Cities or towns that have transferred their local board duties to the county (*see Chapter 5*);
- Cities with Special Boards of Appeal and Equalization appointed by the governing body (*see Chapter 5*); or
- Cities or towns whose local board duties have been transferred due to noncompliance with the training requirements.

When a Local Board of Appeal and Equalization convenes, a majority of the members (quorum) must be in attendance in order for any valid action to be taken (*see Chapter 4 for more information about quorum requirements*).

The local assessor is required by law to be present with his/her assessment books and papers. The local assessor is required to take part in the proceedings to support his values or recommend a change, but the local assessor has no vote. He/she should be prepared to explain how the value was determined, and in doing so, the assessor should be able to describe the characteristics of the property, such as: location and neighborhood; public or private restrictions on the property; building type and size; quality of construction; age of the structure; physical condition of the structure; total number of rooms and total number of bedrooms and bathrooms; and market conditions, etc.

The local assessor should be knowledgeable about the local real estate market and the property in the area. While it isn't the goal of the assessor to influence the board, the assessor should provide factual information to support the value and classification or to support a recommended change to a subject property. The local assessor also should be able to explain how the property classification was determined.

In addition to the local assessor, the county assessor or one of his/her assistants is required to attend. The board should ask the local and/or county assessors to present any tables that have been prepared, making comparisons of the current assessments in the district. Either the local or county assessor is required to have maps and tables relating particularly to agricultural land values for the guidance of the Local Board of Appeal and Equalization.

The local board should be prepared to ask the local and county assessors questions, and assessors should be prepared to answer questions and provide information that will assist the board in its deliberations.

Meeting dates and times for the local board

The meeting date and time for the Local Board of Appeal and Equalization is set by the county assessor. The county assessor must provide written notice of the date and time to the city or town clerk by February 15 of each year. The clerk shall publish and post notice of the meeting at least 10 days before the date of the meeting.

The Local Board of Appeal and Equalization meeting must be held between April 1 and May 31 of each year (unless the provisions of a charter provide otherwise). The local board must conduct its business and adjourn within 20 days of the date stated in the published notice. Upon request, the Department of Revenue (at its discretion) may grant extensions beyond the 20-day time period.

No changes may be made by the local board after adjourning. The county assessor also may not make any changes in valuation or classification that are intended to correct errors in judgment by the county assessor after the local board has adjourned. However, the county assessor may make changes that are clerical in nature or changes that extend homestead treatment until the tax extension date for that assessment year. A list of all the changes made by the local board must be fully documented and maintained in the assessor's office and must be available for review by any person. A copy of the changes made during this period in those cities or towns that hold a local board must be sent to the county board no later than December 31 of the assessment year.

Documenting local board actions

Before adjourning, the Local Board of Appeal and Equalization must prepare an official record of all actions taken by the board. Minnesota Statutes 274.01, subdivision 1, paragraph (e) requires, in part, that:

“The board shall list separately, on a form appended to the assessment book, all omitted property added to the list by the board and all items of property increased or decreased, with the market value of each item of property, added or changed by the board, placed opposite the item.”

This means that the local board must prepare an official record of the proceedings. **The record must reflect all board actions.** Therefore, the record must list all:

- Assessments of property added to the tax rolls with the market value for each;
- Appeals brought before the board, indicating the action taken by the board (including all appeals in which the board voted “no change”).
- Assessments that have been increased or decreased with the market value for each.
- All class changes.
- All changes that the county assessor brought to the board for action, indicating the action taken by the board.

After the changes have been completed, the record must be signed and dated by the members of the local board who were present at the meeting. The record must also list the names and titles of **all voting members of the local board**, including those who are present and those who are absent, to verify that the quorum requirement was met. The county assessor is to make all changes ordered by the local board that are authorized by law.

Required forms for documenting board actions

County assessors are required to submit any changes made by the Local and County Boards of Appeal and Equalization to the Commissioner of Revenue, along with a copy of the proceedings of each board within 10 working days following final action of the local board. The information must be filed in the manner prescribed by the Commissioner of Revenue (Minnesota Statutes, Section 270.11).

In recent years, there has been increasing interest by the legislature and others in the number of appeals at the local level and the effect of the changes that were made. However, because of the manner in which many counties submit this information, the Department of Revenue has not been able to respond to requests for this information. Therefore, we are requiring that the counties provide the data in a format that is complete, readable and easily interpreted. Each county will be required to submit this information in an electronic format as instructed by the Department of Revenue.

To ensure that the information is consistent from local jurisdiction to local jurisdiction and from county to county, the Department of Revenue also is requiring that the local board complete the following two forms for each Local Board of Appeal and Equalization meeting:

- *Local Board of Appeal and Equalization Certification Form* – must be completed **and signed** to verify that the quorum requirement was met and to provide a summary of board actions.
- *Local Board of Appeal and Equalization Record* – must be completed to provide a detailed report of the proceedings of the board.

The county assessor will provide these forms to the local board. The local board will complete the forms (the jurisdiction total EMV is to be completed by the assessor), and the county assessor will take possession of the completed forms at the end of the meeting.

New forms must be completed in the case of a reconvene meeting. If a recess is called, a quorum also must be present at the reconvene meeting for the local board to take valid action. To verify that the quorum requirement was met, the local board must complete and sign a *Local Board of Appeal and Equalization Certification Form* for each reconvene meeting. In addition, the local board must complete a *Local Board of Appeal and Equalization Record* for each reconvene meeting. The reconvene meeting(s) must be held and all business of the local board must be concluded within 20 calendar days (including the day of the initial meeting) unless the board requests a time extension in writing from the Department of Revenue and the time extension is granted by the department. The date and time for the reconvene meeting must be determined before the initial meeting is recessed. Once the Local Board of Appeal and Equalization has adjourned, they cannot reconvene.

Duties of the local board

The local board is to determine whether all of the taxable property in the town or city has been properly valued and classified. All property is to be valued at its market value, and all property is to be classified according to use. It is assumed that the assessor has properly valued and classified all the property in the jurisdiction. The burden of proof rests with the property owner who must present factual evidence to disprove the assessor's value or classification.

The complaints and objections of property owners appealing individual assessments for the current year should be considered very carefully by the board. An appeal may be made in person, by letter, or through a representative of the owner. Written objections should be filed with the city or town clerk prior to the meeting of the Local Board of Appeal and Equalization and must be presented to the board for consideration while it is in session. The board must hear all complaints and examine all letters. Such assessments must be reviewed in detail, and the board has the authority to make corrections as it deems to be just. The board may recess from day to day until all cases have been heard.

The board should look for property or improvements that are not on the tax rolls. When property or improvements are missing from the tax rolls, an unfair burden falls upon the owners of all property that has been assessed. If the board finds any property or improvements that are not on the tax rolls, the board should place it on the assessment list along with its market value, and correct the assessment so that each tract or lot of real property and each article, parcel or class of personal property is entered on the assessment list at its market value.

Changes within 10 days of local board meeting

Since the Notice of Valuation and Classification must be mailed to taxpayers at least 10 days prior to the meeting of the Local Board of Appeal and Equalization, the assessor should not make changes to the valuation or classification of a property within that 10-day window without bringing the change to the local board for action.

After receiving the notice, the property owner can contact the assessor to discuss questions or concerns. The assessor can make changes to the valuation or classification without bringing the change to the local board if a new notice is mailed to the property owner at least 10 days prior to the local board meeting.

Often times, the assessor will continue to review properties within 10 days of the local board meeting. However, if the assessor makes a change, that change should be brought to the local board for action.

If the property owner agrees with the change, he/she does not need to personally appeal to the board. Instead, the assessor should present such changes to be voted on by the board.

What the board can do

Reduce the value of a property. The local board may reduce the value of a property if the facts show that the property is assessed at a value that is higher than its market value. All property is to be valued at its market value. It is assumed that the assessor has properly valued the property. The burden of proof rests with the property owner who must present factual evidence to disprove the assessor's value.

Increase the value of a property. The local board may increase the value of a property if the facts show that the property is assessed at a value that is lower than its market value. The board also must base the decision to increase the market value on facts. All property is to be valued at its market value. It is assumed that the assessor has properly valued the property. The board must rely on factual evidence to disprove the assessor's value. Before the board raises the market value of a property, it must notify the owner. The law doesn't prescribe any particular form of notice, except that the person whose property is to be increased in assessment must be notified of the intent of the board to make the increase. The owner must be notified either in writing or orally. He/she should be given a time to appear before the local board. After the hearing, the local board should make any corrections that it deems just.

Add properties to the assessment list. If the board finds that any real or personal property has not been entered onto the assessment list, the board shall place it on the assessment list along with its market value, and correct the assessment so that each tract and lot of real property and all personal property is entered on the assessment list at its market value.

Add improvements to the assessment list. In reviewing the individual assessments, the board may find instances where property is not listed at its market value because the value of a building or other improvement was not included when the market value of the property was estimated. These should be carefully reviewed by the board and placed on a tentative list of property values to be increased. The board should then determine to what extent the valuation of such property should be increased. Before the board adds value for new or overlooked improvements, it must notify the owner.

Change the classification of a property. In Minnesota, property is classified according to its use on the assessment date (January 2 of each year). If the property is not currently being used, it is classified according to its most probable, highest and best use. Property owners do not get to choose or request how they want their property to be classified. It is the assessor's job to classify it according to its current use or its most probable, highest and best use. The board can change the classification of any property which in the board's opinion is not properly classified. Again, it is assumed that the assessor has classified the property correctly. The classification must be based on use, and in order for the board to change the classification, the appellant must present evidence that the property is used in a manner consistent with the classification. For example, the assessor classified the property as residential. The owner seeks the agricultural classification. In order for the board to change the classification to agricultural, the owner must prove that the property is used agriculturally and meets the statutory requirements of the agricultural class.

What the board can't do

The local board can't consider prior year assessments. The Local Board of Appeal and Equalization doesn't have the authority in any year to reopen former assessments on which taxes are due and payable. The board considers only the assessments that are in process in the current year. Occasionally, a property owner may appear with a tax statement and protest the taxes or assessment of the previous year. The board should explain tactfully that it does not have the authority to consider such matters. After taxes have been extended, adjustments can be made only by the process of application for abatement or by legal action.

The local board can't order percentage increases or decreases for an entire class of property. The authority of the local board extends over the individual assessments of real and personal property. The board can't increase or decrease by percentage all of the assessments in the district of a given class of property. Changes in the aggregate assessments by classes are made by the County Board of Appeal and Equalization.

The local board can't reduce the aggregate assessment by more than 1 percent. Although the Local Board of Appeal and Equalization has the authority to increase or reduce individual assessments, the total of such adjustments must not reduce the aggregate assessment of the jurisdiction by more than 1 percent. The "aggregate assessment" is the total EMV that the local board has the authority to change, i.e. the total EMV of assessments within the jurisdiction excluding state assessed property. For example, if the total EMV of a jurisdiction is \$2,000,000, the board cannot reduce the total EMV of the jurisdiction by more than \$20,000. This means the EMV after board actions must be at least \$1,980,000.

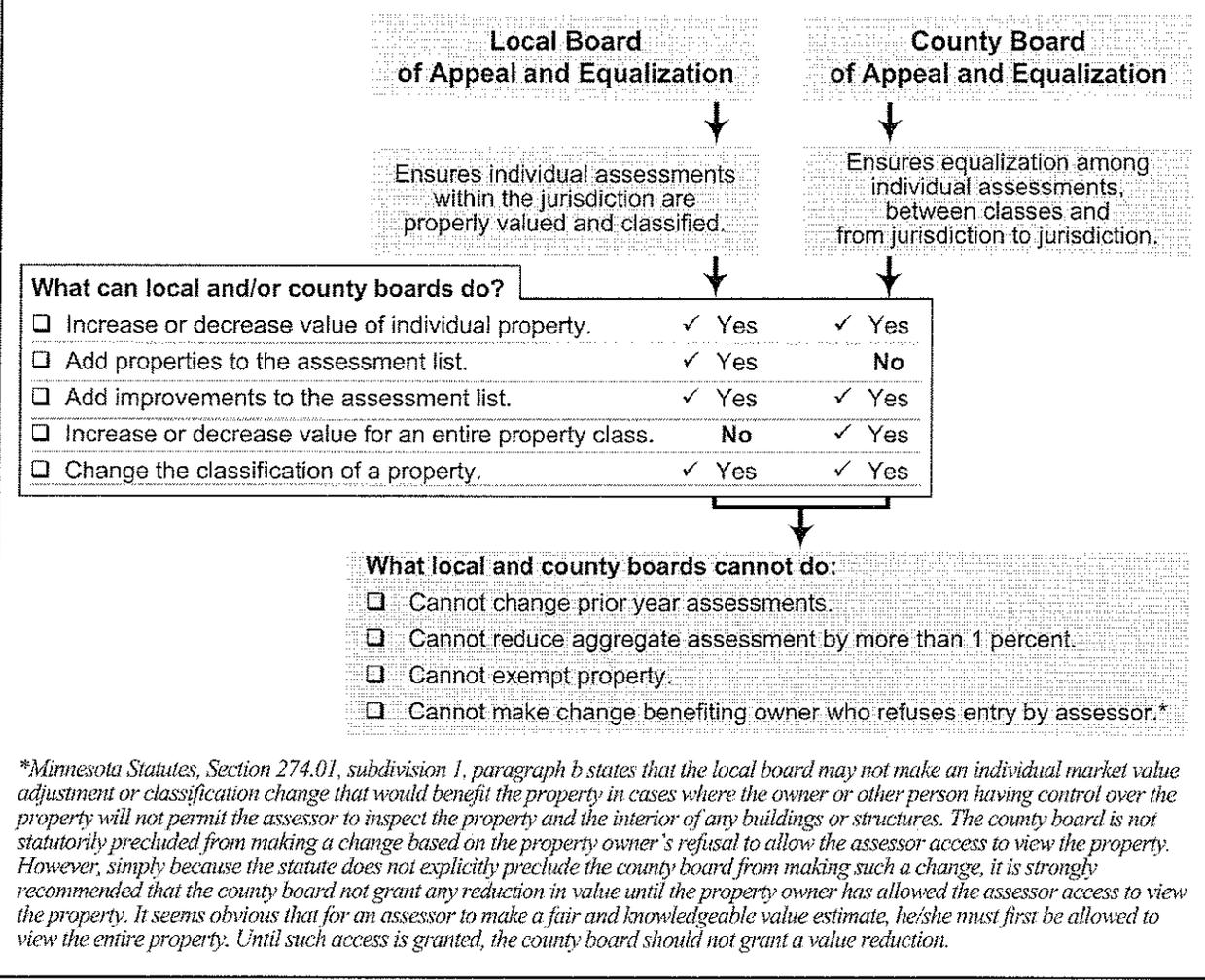
Assessor's EMV
+ Total board EMV increases
- Total board EMV reductions
EMV after board actions

If the total amount of adjustments made by the local board does lower the aggregate assessment by more than 1 percent, none of the adjustments will be allowed. This limitation doesn't apply, however, to the correction of clerical errors or to the removal of duplicate assessments. Clerical errors are limited to errors made by someone performing a clerical function during the course of the actual assessment. Examples of clerical errors are errors such as transposing numbers or mathematical errors. Errors that occur when making estimations during the inspection and appraisal process (judgment errors) are not considered to be clerical errors.

The local board can't exempt property. The Local Board of Appeal and Equalization does not have the authority to grant an exemption or to order property removed from the tax rolls.

The local board can't make changes benefiting a property owner who refuses entry by the assessor. The board may not make an individual market value adjustment or classification change that would benefit the property in cases where the owner or other person having control over the property will not permit the assessor to inspect the property and the interior of any buildings or structures.

Duties: Local and County Boards



Recommendations for local board members

Become familiar with sales information prior to local board meeting

Most local board members aren't necessarily aware of current trends in the real estate market or trained in the field of appraisal. Therefore, advance preparation is essential to making informed, fair decisions on the appeals heard by the local board.

The county assessor (or the local or city assessor in some instances) should provide information on the real estate market in advance of the local board meeting. If this information isn't provided, the local board should request that the assessor provide the information at least one week prior to the meeting so board members have time to review it.

The following are examples of the type of data that the assessor may provide for the local board to use when determining if an adjustment is necessary. This is not an all-encompassing list, and depending on the jurisdiction, it may or may not be necessary for every board to have all the items on the list. The local board should work with the assessor to determine the specific information to be supplied to the local board.

- Information on sales within the district that occurred in the previous year.
- Valuation tables of land types.
- Copy of the values from the mini-abstract for the district (current year and prior year).
- Printout of parcel listings for the district with the values.
- Review of the current statutory classifications and the corresponding class rates.
- Review of value changes by property type in the district.

The local board should also be prepared to request additional background information and to ask questions of the assessor in order to assist with the board's deliberations.

As a local board member, you should review the information provided by the assessor. If you have any questions about the materials, please be sure to contact the assessor. Being knowledgeable about the real estate market is the key to making informed and fair decisions.

Duties of the clerk

The town or city clerk plays an important role in the Local Board of Appeal and Equalization process. The following is a brief list of the duties of the clerk pertaining to the local board meeting:

- The clerk should work with the county assessor to establish the meeting date(s) for the local board.
- The clerk should coordinate with the board to ensure that a quorum will be present at the meeting.
- The clerk must publish and post notice of the meeting at least 10 days prior to the date of the meeting (Minnesota Statutes, Section 274.01, subdivision 1).

Avoid conflicts of interest

No board member shall participate in the discussions or vote on any matters relating to property in which he or she has a conflict of interest. A conflict of interest exists where a member:

- has a financial interest in the property;
- is a director, trustee, officer, employee or agent of any business or institution directly involved with the property; or
- is related by blood or marriage to an individual having an ownership or financial interest in the property.

Board members are afforded the same rights as the general public when it comes to the appeal process. However, when a local board member is appealing the value or classification of his/her property, as a general rule, the local board should not make any changes to the valuation or classification. The local board should vote "no change," and the appeal should be recorded so that the board member can appeal to the County Board of Appeal and Equalization. This will eliminate any appearance of the board having a conflict of interest or the appearance of giving preferential treatment.

- The clerk should have a sign-in sheet for all appellants.
- The clerk should take minutes of the meeting as part of the town or city record.
- The clerk should return all necessary records to the county assessor in a timely manner.

In some jurisdictions, various duties of the clerk may be performed by the city or county assessor or the assessor's staff. In these instances, it is recommended that the clerk be aware of and monitor the duties to ensure that all duties are performed.

2

Legal and policy reasons for fair and impartial appeal and equalization hearings

Legal reasons for fair and impartial local board meetings

Minnesota Statutes, Section 274.01, subdivision 1, paragraph b states:

“The board shall determine whether the taxable property in the town or city has been properly placed on the list and properly valued by the assessor.”

This means that any action taken by the board must be done in an effort to ensure that all taxable property in the jurisdiction has been *properly* valued and classified by the assessor. It is assumed that the assessor has correctly valued and classified all property. The burden of proof rests with the property owner who must present factual evidence to disprove the assessor’s valuation or classification of the property.

Minnesota Statutes, Section 273.11, subdivision 1 requires that all property be valued at its market value. The assessor is required to value all property at market value, and the Local Board of Appeal and Equalization also must keep this in mind when adjusting market values.

The board is to hear all appeals and act in a manner that is just. Minnesota Statutes, Section 274.01, subdivision 1, paragraph b states:

“On application of any person feeling aggrieved, the board shall review the assessment or classification, or both, and correct it as appears just.”

To act in a just manner, the board must only make changes that are based on facts.

Policy reasons for fair and impartial local board meetings

Property owners expect and deserve a fair and impartial hearing. Serving as the Local Board of Appeal and Equalization is an important duty. As one step – generally the first step – in the appeal process, it is very important that the meeting be conducted in a fair and impartial manner, or the property owner’s confidence in the entire appeal process will be undermined.

In order for the property owner to receive a fair and impartial hearing, the property owner must have an opportunity to present his/her appeal and provide evidence to support it. Then the assessor should explain his/her valuation or classification. It is assumed that the assessor has valued and classified the property correctly, and the burden of proof rests with the property owner, who must present factual evidence to disprove the assessor’s value or classification. Then the local board must take the appeal under consideration.

An educated board is the key to a fair and impartial hearing. A board that is knowledgeable about the local real estate market does not simply “rubber stamp” the assessor’s value but makes independent decisions based on facts. It is important that the property owner does not perceive the outcome to be predetermined or believe that the board is “defending” the assessor’s value. This doesn’t mean that the board shouldn’t uphold the assessor’s value. It does mean that if the local board changes the assessor’s value or classification, it must be based on the facts presented.

A fair and impartial hearing does not necessarily mean that the property owner is granted the value reduction or classification change that he/she is seeking. Receiving a fair and impartial hearing only means that the owner had the opportunity to present his/her appeal, the board considered the appeal and based its decision on facts.

3

Local board meeting procedures that foster fair and impartial assessment reviews and other best practices recommendations

Each local board meeting is conducted differently. While there aren't any statutory guidelines for conducting the meeting, this chapter will outline meeting procedures that foster fair and impartial assessment reviews.

Also included in this chapter are best practices recommendations for local boards. We acknowledge that some cities or townships may have bylaws or rules of procedures that may preclude some of these recommendations. Keep in mind that these are *recommended procedures* for the local boards, and it is not intended to contradict such rules or bylaws. It is up to each board to determine which procedures are most appropriate for its Local Board of Appeal and Equalization meeting.

Meeting procedures

The board should run the meeting

The board should take charge of the meeting. It is not the assessor's meeting. The local board is intended to be a fair and impartial review of the assessment. The assessor should realize that the appeal decisions are not in his/her hands. The board's decisions are between the board and the appellant. The assessor is not on trial for his/her work. The board should not critique the assessor's performance or blame the assessor for increasing values (or taxes). Assessors should try not to become too personally involved with the decisions and remember that they have already done their best job. It is now the task of the local board to review the facts and make decisions as it deems just.

- The expectations of the appellant when presenting his/her appeal (The appeal must be substantiated by facts; where the appellant should stand or sit; the appellant should be prepared to answer questions posed by the board, etc.);
- Time limits imposed (if any).
- The procedure the board will follow for making decisions (Will the board hear all appeals before making any decisions? Will the board send a letter to appellants to inform them of the decision? etc.);

The Board Chair should give the assessor the opportunity to present a brief overview of the property tax process and a recap of the current assessment.

Establish ground rules for the meeting

Before hearing any appeals, the board chair should outline the ground rules for the meeting. The ground rules set the tone for the meeting. The specific ground rules may vary for each local board but should include:

- Purpose of the meeting;
- Remind property owners that only appeals for the current year valuation or classification can be made – taxes or prior years' assessments are not within the jurisdiction of the board;
- The order of the appellants (Will it be by appointment first, followed by walk-ins on a first-come basis? etc.);

Appellants should then present their appeals. If the assessor has had a chance to review the property prior to the meeting, the assessor can present facts and information to the board to support the valuation or classification or recommend that the board make a change. If the assessor has not had a chance to review the property prior to the meeting, the assessor can present such information to the local board at the reconvene meeting.

All proceedings must be public

The local board meeting is subject to the open meeting law. The open meeting law requires that meetings of governmental bodies generally must be open to the public. Therefore, all local board proceedings must be public.

Board members should not leave the meeting to the assessors while they talk about other business. Board members should not confer with each other, the assessor or appellants regarding appeals in question outside the local board meeting(s).

Make appellants feel comfortable

Presenting an appeal to the Local Board of Appeal and Equalization can be intimidating for appellants. The goal of the board should be to make the appellant feel comfortable, not intimidated. To make the appellant more comfortable when presenting an appeal to the local board, it is recommended that the appellant sit (or stand) in front of the board and present directly to the board rather than having the appellant speak and address all present in the audience. This not only allows the appellant to be more comfortable, but also decreases the potential that an angry “mob” will form at the meeting.

Dealing with angry or difficult property owners

The following are some tips that may be helpful when dealing with an angry or difficult property owner:

- Always treat the property owner with respect.
- Listen to the property owner.
- Speak calmly and keep your body language calm.
- Encourage the property owner to discuss his/her concerns.
- Don't get defensive.
- Keep things on a positive level.
- Avoid blaming statements (“You...”).
- Keep the conversation focused on the issue, not personalities (“The assessor doesn't like me,” etc).
- Clarify the problem.
- Acknowledge the property owner's concerns.
- Show empathy for the property owner.
- Agree, at least in part, with what the property owner has to say (“I agree with what you're saying, but...”).
- Emphasize collaboration (“Let's see if we can find a solution to this problem.”).

- Let the property owner know that you will be reviewing the facts of the case.
- End the property owner's presentation by acknowledging in a tactful manner that you've heard what he/she has to say and will consider the matter.

If things get too heated, it may be a good idea to suggest a short break so the parties can calm down. Don't let things get out of hand before informing the authorities. If the board is anticipating any problems, it may be a good idea to inform local law enforcement of the meeting in advance. Don't take threats or someone talking about violence lightly. Safety should be your main concern. If you feel threatened, call the authorities.

Oftentimes, property owners are frustrated by the process because they are unsure about how to appeal to the local board. To reduce their frustration, it is recommended that the local board let them know what they will need to do to substantiate their appeal (*see “Handouts for property owners” section in the Appendix for information local boards may supply to property owners*).

The Notice of Valuation and Classification will direct property owners to the Minnesota Department of Revenue website (<http://www.taxes.state.mn.us>) for information on the appeal process and how to substantiate appeals. Many counties also have information on their websites such as how to appeal, property information, frequently asked questions, etc. If your county website does have information relating to assessment or property taxes, it is a good idea to become familiar with this information so you can refer property owners to it.

Hearing appeals

The board chair should call the appellant. The board must be attentive when the appeals are being presented. Take the time to listen to the person presenting the appeal, but don't let the appellant dominate the meeting.

After an appellant has presented his/her case, the chair should ask the assessor to explain how the value and/or classification was determined. To keep things moving and to conduct a fair meeting, any time limits imposed on an appellant should also be imposed on the assessor.

The board should ask questions of the appellant and the assessor if more information is needed.

Depending on the procedure that the board is following, the chair should either:

- Have the board make a decision on the appeal; or
- Inform the appellant that his/her concern will be taken into consideration and let the appellant know when a decision will be made, as well as how he/she will be informed of the board's decision.



Review process not value-reduction process

The appeal process is a review process and not just a value-reduction process. The Local Board of Appeal and Equalization is an important step in maintaining an equitable property tax system. It is vital that the board members take this responsibility seriously. Any value changes – increases or decreases – must be justified as value changes have the effect of shifting the tax burden.

The board must avoid reducing the value of all individuals who appeal to the board, as that would be unfair to the property owners who have not appealed. The board should not give reductions to people just for “showing up.” It is assumed that the assessor has properly valued and classified all property in the jurisdiction. The burden of proof rests with the property owner who must present factual evidence to disprove the assessor's value or classification. All changes made by the board must be based on facts.

Recess or adjourn

The board may not take action after adjourning. All issues must be resolved before the meeting is adjourned. If issues still need to be considered, the board should recess until the next meeting. The next (reconvene) meeting must be held within 20 calendar days (including the day of the initial meeting) unless the board requests a time extension from the Department of Revenue, and the time extension is granted by the department. The date and time for the reconvene meeting must be determined before the initial meeting is recessed. Once the Local Board of Appeal and Equalization has adjourned, they cannot reconvene.

Recess

A break in a meeting or proceedings until a certain date and time. Recess is not to be confused with “adjournment,” which winds up the proceedings.

Adjourn

The final closing of a meeting, such as a meeting of the board of directors or any official gathering. Adjourn is not to be confused with “recess,” which means the meeting will break and then continue at a later time.

It is the board's duty to review the facts and make corrections as it deems just. It is not appropriate to turn the decision over to the assessor. The board should not order the assessor to review the property and change the value or classification and then adjourn. In this instance, the issue is not resolved. The board may ask the assessor to review the property and report back to the local board at a reconvene meeting. Ultimately, it is the local board that must make any adjustments.

Decisions

All decisions should be adopted by a formal vote. Options for decisions include:

- No change;
- Lower the value;
- Raise the value;
- Notify a property owner of intent to raise the value;
- Change the classification; or
- Have the assessor inspect the property and report to the local board (within the 20-day timeframe).

There are certain circumstances, such as appeals involving contamination values or income-producing properties that may require more than 20 days for the assessor to review. In such instances, the board may decide to vote “no change” and forward the appeal to the County Board of Appeal and Equalization.

There also may be circumstances involving complicated appeals, in which the board may review the information presented and not be able to determine if the assessor’s value should stand or if the property owner’s evidence justifies a value or class change. If the board is faced with a situation in which it isn’t sure how to rule based on the facts presented, the proper decision would be “no change.” In these instances, the local board should keep two things in mind:

- The property owner can appeal to the county board or he/she can take the case to Tax Court; and
- The county assessor can ask the county board to review the property value or classification if he/she believes that the local board change was not justified.

Appeals must be substantiated by facts

Appeals must be based on facts. The property owner must present supporting evidence to convince the board that the current year valuation or classification is incorrect. The supporting evidence can be presented either in person, through a letter or through an authorized representative.

The property owner should describe the property, how the property is used, as well as its current condition. Photos can be very helpful in illustrating the condition of the property. The property owner should review the assessor’s data on the property to make sure that it is correct. The property owner should also review recent property sales in the area. At the assessor’s office, the property owner can review Certificates of Real Estate Value (CRVs) for properties in the area. Other evidence such as a recent appraisal may also be helpful information to present.

The property owner should keep in mind that taxes are not the issue. The board should not consider arguments based on the ability of the taxpayer to pay, services received for taxes paid or tax equalization. Given the broad spectrum of tax capacity rates, tax classifications and state credit programs that apply to various properties throughout the jurisdiction, tax comparisons are misleading. To strengthen their appeal, property owners should present evidence about the property’s value or classification, not how much they are paying in taxes.

Property in Minnesota is classified according to its actual use, such as commercial, agricultural, or residential homestead, not zoning. Property owners disputing the classification need to present information that proves how they use the property. For example, a property is classified as residential. The property owner believes that his/her property is eligible for the agricultural classification and appeals to the local board. In order for the board to change the classification to agricultural, the owner must prove that the property is used agriculturally and meets the statutory requirements of the agricultural class.

As a board member, you should be objective, and be sure that any changes are based on facts. Do not recommend changes without any supporting documentation. Do not recommend changes for all people who appeal to the board unless all appeals can be substantiated. Simply taking the time to appeal is not a valid reason for adjusting the market value or changing the classification of a property. Always keep in mind that any reductions that the board may make will have the effect of shifting the tax burden to other property in the jurisdiction. The amount the jurisdiction levies will not change when values are increased or decreased, only the amount paid by each taxpayer changes.

For information on the appeal process and how to substantiate an appeal, you can direct property owners to the Minnesota Department of Revenue website (<http://www.taxes.state.mn.us>). If your county website also contains additional information such as how to appeal, property information, frequently asked questions, etc., it is a good idea to become familiar with this information so you can refer property owners to it.



Best practices recommendations

Have appellants call for appointments

It is recommended that the local board hear appeals on an appointment basis. The Notice of Valuation and Classification sent to all taxpayers to notify them of their property value and classification can instruct appellants to call for an appointment with the local board.

Appointments benefit the board, the assessor and the appellant. Appointments give the board an idea of how many property owners will be appealing, so the board can manage their time appropriately. It gives the assessor time to assist in the board's deliberations by reviewing the property and collecting supporting data or recommending that the board make a change.

Appellants also benefit because they need only come to their scheduled appointment and do not have to spend time listening to other appellants. In some instances, property owners call to schedule appointments with the local board, and the appeal is avoided altogether because the issue can be resolved easily by the assessor's staff. Property owners who call for appointments can also be given information on preparing and presenting an appeal so they will know what to expect at the meeting (see "*Handouts for property owners*" section in the Appendix).

In addition to hearing appeals by any appellants who scheduled appointments, the local board also must hear any appeals by property owners who come to the meeting without having scheduled an appointment prior to the meeting. When outlining the ground rules for the meeting, the board chair should inform the appellants that the board will be hearing appeals from those who have scheduled appointments first, and then the board will be hearing appeals by others (in the order listed on the sign-in sheet).

Time limits for presenting appeals

Time limits can help to keep the meeting moving. Time limits may be more appropriate in jurisdictions with a significant number of people appealing their valuation or classification. If there are only a few people at the meeting, time limits may not be necessary. If there are several appellants, it may be beneficial to establish a time limit for each appellant.

If time limits are established, they should be included in the ground rules that are outlined at the beginning of the meeting. Whether or not a time limit is established, it is the responsibility of the board chair to keep the meeting moving. If an appellant goes on and on about a specific point, the board chair should intervene – in a professional manner – to keep the meeting on track. The board chair should ensure that appellants stick to their time allotments. If the appellant discusses taxes or previous assessments, the board chair should remind him/her tactfully that the issue is the current year valuation or classification.

If the board determines that time limits are appropriate for appellants, it also should impose time limits for the assessor to support his/her valuation or classification or recommend that the board make a change.

Hear all appeals first

It is recommended that the board hear all appeals before making any decisions. The board should make all decisions later in the meeting or at the reconvene meeting (must be held within 20 calendar days) if it is determined that the assessor should view the property or if the board requests additional information from the assessor. If a reconvene meeting is necessary for the assessor to report back to the board, it should be limited to appeals made at the initial meeting. The reconvene meeting is not for hearing a property owner's initial appeal.

Hearing all appeals first gives the board an opportunity to get a better understanding of what happened in the district, so it can make consistent recommendations. It eliminates situations where the board feels obligated to respond in a certain manner to one property owner because of an earlier decision. It also speeds up the process for appellants as they may leave after they present their appeal.

Conducting other business at the local board meeting

It is best to hold a special meeting for the Local Board of Appeal and Equalization and not conduct the regular council meeting (other business) at the local board meeting. However, due to the low attendance in some jurisdictions, conducting other business at the meeting may be an acceptable practice if handled appropriately.

If other business is also to be conducted at the meeting, the time listed on the Notice of Valuation and Classification should be the start time for the appeals portion of the meeting. You should conduct other business either before the meeting (table any discussion if not completed when it is time for the Local Board of Appeal and Equalization) or after the meeting (allow any late arrivals to present their appeal even if the board has moved onto other business).

There have been instances in the past where the board members have held their regular meeting in one part of the hall, and the assessor has been told to meet with appellants in another area. **This is not an acceptable practice.** It is the responsibility of the board to hear the appeals and the facts presented to make an informed and fair decision.

Notifying property owners of decisions

It is recommended that the jurisdiction notify all appellants of the decision of the board, even if the appellant was present for the decision. Given the recommended format of hearing all appeals before making any decisions, appellants may choose not to stay for the entire meeting. A letter notifying appellants of the decisions ensures that they understand and are aware of the action, if any, taken by the board. It is also an opportunity to notify appellants of additional appeal options if they are not satisfied with the board's decision (see *“Recommended format to notify appellants of local board decisions”* in the Appendix).

4 Quorum requirements for local boards

Quorum must be present

A majority of the voting members of the Local Board of Appeal and Equalization must be in attendance in order for any valid action to be taken. When a local board meets and conducts business without a quorum it is conducting an illegal meeting. This means that any changes made by a local board that does not meet the quorum requirement are null and void.

What constitutes a quorum?

Quorum requirements differ depending on the type of body that is meeting. Per Minnesota Statutes, Section 274.01, subdivision 1, paragraph a, the town board of a town, or the council or other governing body of a city is the Local Board of Appeal and Equalization.¹

Quorum

The number of people required to be present before a meeting can conduct business. For the Local Board of Appeal and Equalization, a majority of the voting members of the board must be present to meet the quorum requirement.

¹ Except for the following situations:

- Cities whose charters provide for a board of equalization;
- Cities or towns that have transferred their local board duties to the county (see Chapter 5); or
- Cities with Special Boards of Appeal and Equalization appointed by the governing body (see Chapter 5).
- Cities or towns whose local board duties have been transferred to the county due to noncompliance with the training requirements.

Townships: Per Minnesota Statutes, Section 366.01, subdivision 1, the supervisors of each town constitute the town board. Two supervisors constitute a quorum at a town board meeting unless the town is operating under “option A,” which means it has a five-member board of supervisors. In the latter case, three supervisors are required to meet the quorum requirement.

City councils: According to Minnesota Statutes, Section 412.191, the city council in a standard plan city shall consist of an elected mayor, an elected clerk, and three or five elected council members (which means these cities have either five or seven voting members). In optional plan cities, the city council consists of an elected mayor and four or six elected council members (which means these cities have either five or seven voting members). In all statutory cities, the mayor is a voting member of the council and must be counted when determining whether a quorum is present. A majority of the voting members must be present to meet the quorum requirement. Charter cities may provide that a different number of council members constitutes a quorum.

Special boards: Appointed by the governing body of a city, a majority of the voting members must be present in order to meet the quorum requirement.

Each year, there are numerous complaints from property owners who have taken time off from work – or simply taken their personal time – to attend a local board meeting only to find that the meeting won’t take place due to the lack of a quorum.

When a local board does not meet because a majority of the members are not present, it sends a message to property owners that the board does not value their time. It also sends the message that the board does not take the responsibility of serving as the Local Board of Appeal and Equalization seriously.

Assessor’s role when a quorum isn’t present

Rather than simply sending home angry and frustrated property owners, it is recommended that the format change to an “open book” meeting with the assessor. Property owners can discuss their issues one-on-one with the assessor or the assessor’s staff. If they are not satisfied with the outcome, they can appeal to the County Board of Appeal and Equalization. This assures that the time property owners set aside to appeal to the local board is not wasted.

Arrive on time for the meeting

It is also very important that the board members and all required attendees (county assessor, local assessor, etc.) arrive at the meeting on time and that the meeting begins at the scheduled time. This shows respect for the people who are appealing to the board, and also shows that you value their time.

5 Explanations of alternate methods of appeal

Open book meetings

Open book meetings are an alternative to the Local Board of Appeal and Equalization. During “open book” meetings, the valuation and classification issues are handled by the assessor’s staff on a one-on-one basis with the property owner. Typically, open book meetings are held by the county assessor’s staff. However, larger cities with an appointed city assessor may hold their own open book meetings.

The open book meetings are held in locations that are convenient for property owners. Often open book meetings are held over several days during both day and evening hours. This allows property owners to appeal when it best suits their schedules instead of having to rearrange their schedules to attend a local board meeting held at one place and time.

The open book meetings provide a forum for property owners to meet with assessment staff on an informal basis to review information about their property and to ask questions about the assessment. This setting allows the assessor's office to resolve questions and reduce the number of property owners who feel the need to appeal to the County Board of Appeal and Equalization.

Property owners do not need to make an appointment to meet with the assessment staff. They can simply show up at the dates and times stated on the Notice of Valuation and Classification, and an appraiser will discuss their assessment.

Depending on the jurisdiction, the appraisers may have laptop computers to access information about the taxpayer's property. Some counties may be able to link directly to their computer-assisted mass appraisal (CAMA) system which allows the appraiser to obtain data on sales of comparable properties.

When reviewing the details of the property with the owner, the appraiser can verify the accuracy of the county's data and correct any errors. The property owner can also schedule an appointment for the appraiser to view the property if needed.

Benefits for the property owner

Property owners often find that the open book meeting is less intimidating than presenting their appeal to the Local Board of Appeal and Equalization. They often appreciate the fact that they can have their questions answered in a more private setting, and not have to be apprehensive about making a presentation in front of their friends and neighbors. In this one-on-one setting, property owners may spend as much time with the appraiser as they need. They can compare the value of their home with the values of similar homes owned by their neighbors.

The process is very efficient because concerns and questions are often resolved immediately. Property owners can see that the appraiser collects the same information on all properties, reassuring them that the process is the same for everyone, and they have not been singled out for a value increase.

Property owners who are not satisfied with the "open book" approach may appeal to the County Board of Appeal and Equalization and/or appeal to Tax Court.

Open book meetings

An open book meeting is a meeting held by the county assessor's office to discuss property owners' questions regarding their assessments. The one-on-one meeting usually is held as an alternative to the Local Board of Appeal and Equalization.

Benefits for property owners

"Open book" meetings provide many benefits:

- No appointment needed.
- Property owners can verify or correct information about their property.
- Property owners can schedule a time for the assessor to view their property.
- The setting is less intimidating than a Local Board of Appeal and Equalization meeting.
- The property owner does not need to "present" their appeal in front of friends and neighbors.
- Property owners can compare their values to the values of other similar homes.
- Questions and concerns are often resolved immediately.
- The process is very efficient.
- Property owners may appeal to the County Board of Appeal and Equalization and/or to Tax Court if not satisfied with the outcome.

It is only a recommendation that the property owner attend the open book meeting to discuss concerns prior to the County Board of Appeal and Equalization. In a jurisdiction that does not have a Local Board of Appeal and Equalization, **the property owner is not required to attend an open book meeting in order to appeal to the County Board of Appeal and Equalization.**

Benefits for the local board

The benefit for the local board is that an open book meeting saves time for board members. It eliminates the need for the board to become familiar with and educated on the local real estate market. Board members will be able to spend this time concentrating on their other duties as town board or city council members. In addition, board members can avoid confrontational situations with constituents and will no longer be put into difficult situations by having to make decisions about the property values or classifications of property owned by friends and neighbors.

Benefits for the county

While the number of appeals made at the open book meeting may not be less than the number of appeals to the local board, the benefit for the county is that the open book process allows for immediate consideration of issues, and in many cases, appeals are resolved before the County Board of Appeal and Equalization. The process is efficient for the county because it can often consolidate several jurisdictions into one meeting (or a series of meetings) instead of holding at least one meeting in each jurisdiction.

Option 1: Transferring assessment and local board duties to the county

The town board or city council may transfer the powers and duties of the Local Board of Appeal and Equalization to the county board (under Minnesota Statutes, Section 274.01, subdivision 3) and no longer perform the function of a Local Board of Appeal and Equalization.

However, in order to exercise this option, the local jurisdiction also must have its assessment done by the county. This means that the local jurisdiction must give up its local assessor. Some jurisdictions do not see this as an option, because they have no intention of relinquishing this power to the county. For other town boards or city councils, this may be a good option.

Before transferring the powers and duties to the county board, the town board or city council shall give public notice of the meeting at which the proposal for transfer is to be considered (the public notice shall follow the procedure contained in Minnesota Statutes, Section 13D.04, subdivision 2).

A town board or city council that wishes to transfer the assessment and local board duties to the county board must communicate this intent in writing to the county assessor before December 1 of any year to be effective for the following year's assessment. This transfer of duties may either be permanent or for a specified number of years. However, the duties must be transferred to the county board for a minimum of three years, and the length of the transfer must be stated in writing. A town or city may renew its option to transfer its duties to the county board.

Property owners in jurisdictions that have chosen this option would be provided with an open book meeting in place of the Local Board of Appeal and Equalization. Property owners who are not satisfied with the outcome of the open book meeting may appeal to the County Board of Appeal and Equalization and/or to Tax Court.

Option 2: Transferring local board duties to the county

Previously, the only option for transferring the local board duties to the county board meant that the local jurisdiction had to give up its local assessor as well. Some jurisdictions saw this option as a loss of control, and therefore, it wasn't considered to be an option for the city or town.

The quorum and training requirements for local boards were implemented to improve the local board process so that the boards function fairly and objectively. The intent of the legislation was not to force or require a city or town to give up its local assessor. However, a jurisdiction that fails to meet these requirements must transfer the duties of the Local Board of Appeal and Equalization to the County Board of Appeal and Equalization. In this situation, the jurisdiction would lose the right to hold its local board, but it would be able to retain its local assessor.

It seems unfair that a jurisdiction which **voluntarily transfers** its Local Board of Appeal and Equalization duties to the County Board of Appeal and Equalization must give up its local assessor, while a local board that **must transfer** its duties to the county board for failing to meet the training or quorum requirements may retain its local assessor.

It seems appropriate that the local jurisdiction be given the opportunity to decide to forego its right to act as a Local Board of Appeal and Equalization and still maintain its local assessor. If the town board or city council deems that property owners would be best served with an open book meeting, which also would relieve the board from having to make difficult value and classification decisions, the board or council should contact the county assessor and inform him/her of the jurisdiction's intent to be treated as though it did not meet the quorum or training requirements. It should clarify that the city or town is transferring its duties to the county board, but will retain its local assessor. The town board or city council must notify the county assessor of this decision in writing by December 1 to be effective for the following assessment year.

Property owners in a jurisdiction that has chosen to transfer its Local Board of Appeal and Equalization duties to the County Board of Appeal and Equalization would be provided with an open book meeting in place of the local board. Property owners who are not satisfied with the outcome of the open book meeting may appeal to the County Board of Appeal and Equalization and/or to Tax Court.

The local board can be reinstated by resolution of the governing body of the city or town and upon proof of compliance with the training requirements. The resolution and proof of compliance must be provided to the county assessor by December 1 to be effective for the following assessment year.

Special Boards of Appeal and Equalization

The governing body of a city (including cities with charters that provide for a board of equalization) may appoint a Special Board of Appeal and Equalization. The city may delegate to the Special Board of Appeal and Equalization all of the powers and duties of the Local Board of Appeal and Equalization.

The special board serves at the direction and discretion of the appointing body, subject to the restrictions imposed by law. The appointing body shall determine the number of members of the board, the compensation and expenses to be paid, and the term of office of each member.

At least one member appointed to the Special Board of Appeal and Equalization must be an appraiser, realtor or other person familiar with property valuations in the assessment district.

Appendix

Glossary

Abatement – Reduction of estimated market value, taxes, costs, penalties or interest which have been erroneously or unjustly paid.

Adjourn – The final closing of a meeting, such as a meeting of the board of directors or any official gathering. Adjourn is not to be confused with “recess,” which means the meeting will break and then continue at a later time.

Agricultural property – Property including the house, garage, farm buildings and farm land used for raising or cultivating agricultural products. Defined in Minnesota Statutes as Class 2a agricultural homestead or Class 2b agricultural non-homestead property.

Apartment property – Residential real estate containing four or more units and used or held for use by the owner or by the tenants or lessees of the owner as a residence for rental periods of 30 days or more. Defined in Minnesota Statutes as Class 4a rental housing.

City council – The legislative body of a city. The city council in a standard plan city consists of an elected mayor, an elected clerk, and three or five elected council members (which means these cities have either five or seven voting members). In optional plan cities, the city council consists of an elected mayor and four or six elected council members (which means these cities have either five or seven voting members). In all statutory cities, the mayor is a voting member of the council and must be counted when determining whether a quorum is present. A majority of the voting members must be present to meet the quorum requirement. Charter cities may provide that a different number of council members constitutes a quorum.

Class rate – The percent of market value (as defined in Minnesota Statutes) used to determine a property's tax capacity.

Classification – The assessor assigns a statutorily-defined classification to all property based upon the use of the property on January 2 of each year. Examples of Minnesota property classes include residential, agricultural, commercial-industrial, apartment and seasonal residential recreational.

Commercial-industrial property – Property used for commercial or industrial purposes such as retail or manufacturing. Defined in Minnesota Statutes as Class 3a commercial and industrial property.

Comparable property sales – Properties that have recently been sold which have similar property characteristics to a property being appraised.

Computer-assisted mass appraisal (CAMA) system – A computerized system that uses statistical analysis to generate estimates of property value.

County Board of Appeal and Equalization – A group of people, typically the county commissioners and the county auditor, authorized to examine, compare and equalize property assessments so that each parcel in the county is listed at its market value.

Estimated market value (EMV) – This is the value that the assessor estimates the property would likely sell for on the open market. State law requires assessors to value property at 100 percent of market value. This value may be appealed to the Local Board of Appeal and Equalization, County Board of Appeal and Equalization or Tax Court.

Exempt property – Property that is not subject to taxation. All property, real and personal, in the state is taxable except that which by law is exempt. Exemption laws are to be construed strictly, not broadly. Only the assessor can grant an exemption; Local or County Boards of Appeal and Equalization cannot grant an exemption. Ownership, use and necessity of ownership are key elements reviewed by the assessor when determining exemption.

Highest and best use – “A principle of appraisal and assessment requiring that each property be appraised as though it were being put to its most profitable use (highest possible present net worth), given probable legal, physical, and financial constraints.” *Glossary for Property Appraisal and Assessment*, International Association of Assessing Officers, 1997.

Home rule charter city – Any city which has adopted a home rule charter pursuant to the constitution and laws; “statutory city” means any city which has not adopted such a charter.

Homestead – Residential property that is occupied as the principal place of residence by the owner is eligible to receive the homestead status. Homestead property receives the market value homestead credit which is equal to .4 percent of the market value of the property. The amount of homestead credit for a homestead may not exceed \$304 and is reduced by .09 percent of the market value in excess of \$76,000.

Limited market value (LMV) – Limits how much the taxable value of certain properties can increase from year to year. Limited market value only applies to agricultural, residential, timberland, noncommercial seasonal residential recreational (cabin) property. New improvements are not subject to limited market value.

Local assessor – An assessor who works on a contract basis for a township or city.

Local Board of Appeal and Equalization – A group of people, typically the town board or city council, authorized to determine whether the assessor has properly valued and classified all parcels of taxable property located within the district.

Mass appraisal – The process of valuing a group of properties as of a given date using standard methods and statistical testing.

Net tax capacity – Determined by multiplying the class rate by the taxable market value for each property.

Notice of Valuation and Classification – A notice mailed to taxpayers at least 10 days prior to the Local Board of Appeal and Equalization (generally in February or March) to inform them of their property value and classification for the current assessment year. Minimally, the notice must include: the estimated market value for the current and prior assessment; the limited market value for the current and prior assessment; the value of any new improvements; the amount qualifying for the “This Old House” exclusion; the taxable market value for the current and prior assessment; the property classification for the current and prior assessment; the assessor's office address; and the dates, places, and times set for the meetings of the Local Board of Appeal and Equalization, any open book meetings and the County Board of Appeal and Equalization.

Open book meeting – A meeting held by the county assessor's office to discuss property owners' questions regarding their assessments. The one-on-one meeting usually is held as an alternative to the Local Board of Appeal and Equalization.

Property characteristics – Distinguishing interior and exterior features of a property and its surroundings such as its: location and neighborhood; public or private restrictions on the property; building type and size; quality of construction; age of the structure; physical condition of the structure; and the total number of rooms, bedrooms and bathrooms.

Quorum – The number of people required to be present before a meeting can conduct business. For the Local Board of Appeal and Equalization, a majority of the voting members of the board must be present to meet the quorum requirement.

Recess – A break in a meeting or proceedings until a certain date and time. Recess is not to be confused with “adjournment,” which winds up the proceedings.

Residential property – Property that is residential in nature consisting of the house, garage and land (not on agricultural land) including homestead and non-homestead single-family houses, duplexes and triplexes. Defined in Minnesota Statutes as Class 1a residential homestead, Class 1b disabled homestead, Class 4b(1) residential real estate containing less than four units that does not qualify as class 4bb, Class 4bb(1) nonhomestead residential real estate containing one unit, other than seasonal residential recreational property; and Class 4bb(2) a single family dwelling, garage, and surrounding one acre of property on a nonhomestead farm.

Seasonal residential recreational property – Real property devoted to temporary and seasonal residential occupancy for recreation purposes, including real property devoted to temporary and seasonal residential occupancy for recreation purposes and not devoted to commercial purposes for more than 250 days in the year preceding the year of assessment. Defined in Minnesota Statutes as Class 4c(1) commercial or noncommercial seasonal residential recreational property.

Statutory city – Any city which has not adopted a home rule charter pursuant to the constitution and laws; the term “home rule charter city” means any city which has adopted such a charter.

Tax levy – The total amount of property tax revenue needed to meet the jurisdiction's budget requirements.

Tax rate – Determined by taking the total amount of property tax revenue needed (tax levy) divided by the net tax capacity of all taxable property within the taxing jurisdiction.

Tax statement – Mailed to taxpayers in March of each year, the property tax statement includes the actual tax amounts to be paid in the current year. Property tax statements for manufactured homes assessed as personal property are mailed in May of each year.

Taxable market value (TMV) – This is the value that property taxes are actually based on, after all reductions, limitations, exemptions and deferrals.

Town board – The supervisors of a town constitute the town board. Unless provided otherwise, there are three supervisors. Towns operating under “option A” have five supervisors.

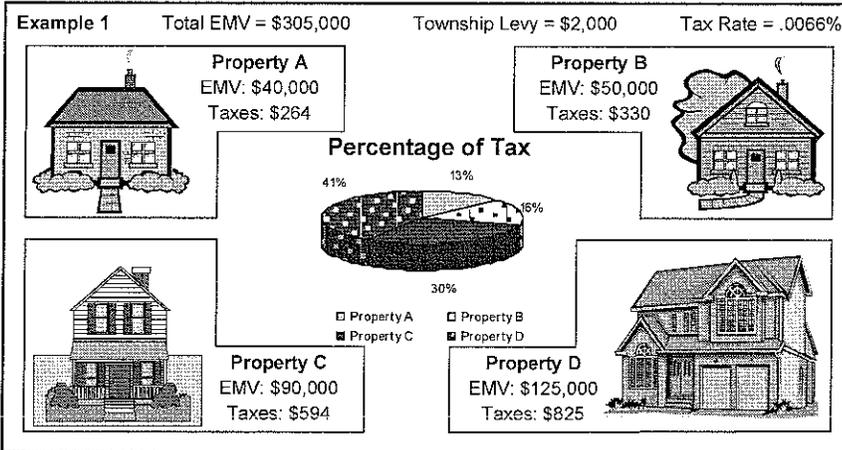
Truth in Taxation Notice – Mailed to taxpayers in November of each year, the truth in taxation notice contains the estimated tax amounts for the following year. The statement also includes current year tax amounts for comparison purposes.

How value changes affect taxes

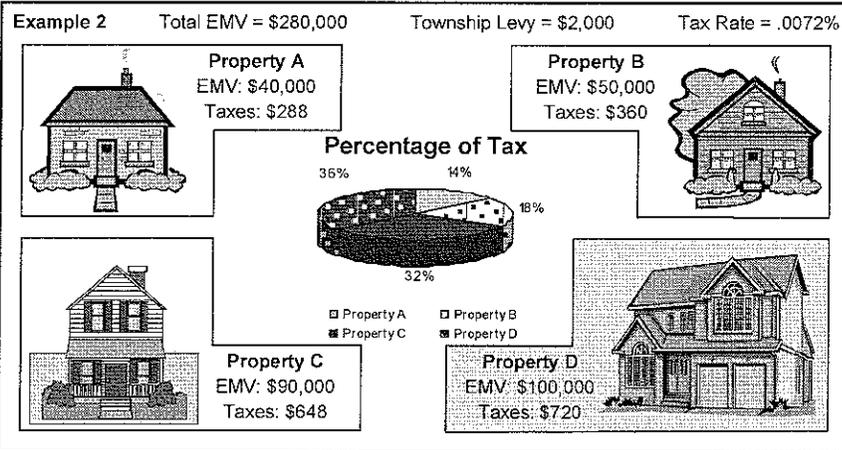
The following examples are based on a town consisting of four residential nonhomestead class 4bb houses. While no such town exists, the small tax base is used to illustrate how value changes may affect taxes for each house.

As the tax base becomes larger, value changes will not affect taxes as dramatically as the examples shown. Even if a value change results in a few less dollars for an appellant and a few more dollars to be shared

by all property in the jurisdiction, the board must remember that its actions will ultimately affect all taxpayers in the jurisdiction. Therefore, it is imperative that the local boards base all decisions on facts.

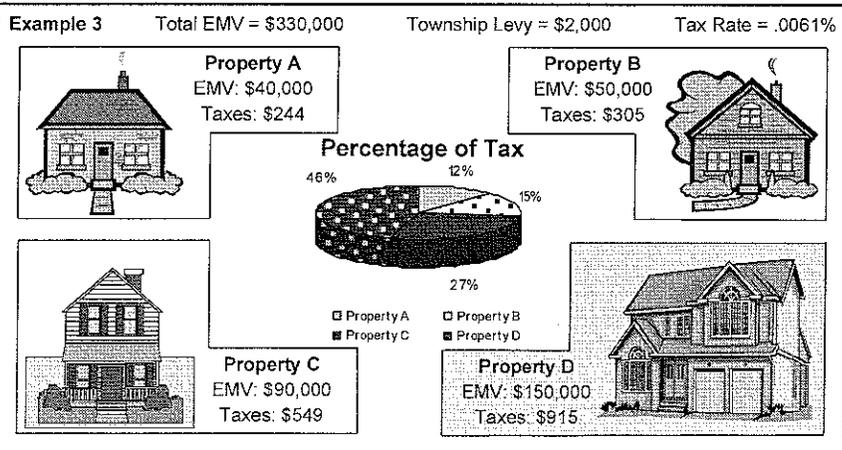


Example 1
The values and corresponding share of the tax burden for the four properties before the meeting of the Local Board of Appeal and Equalization



Example 2
The owner of Property D appealed the value of his property. He did not provide any evidence as to why his value should be reduced. The board reduced his value by \$25,000.

The example shows how the change affects the share of the tax burden for the four properties.



Example 3
The owner of Property D appealed the value of his property. He did not provide any evidence as to why his value should be reduced. The board raised his value by \$25,000.

The example shows how the change affects the share of the tax burden for the four properties.

Recommended format to notify appellants of local board decisions

April 29, 2005

{Insert property owner's name}

{Address line 1}

{Address line 2}

Dear {Insert name here}:

This letter is to acknowledge an appeal to the {insert jurisdiction here} Local Board of Appeal and Equalization regarding the value or classification of parcel number {Insert parcel number here}.

The local board considered the appeal and any information presented (or supplied in the case of written appeals). As a result of its review, the local board voted to:

- _____ Make no change to the 2005 value or classification
- _____ Change the 2005 classification from _____ to _____
- _____ Reduce the 2005 value from \$ _____ to \$ _____
- _____ Increase the 2005 value from \$ _____ to \$ _____

Comments:

If you are not satisfied with the outcome of the Local Board of Appeal and Equalization, you may appeal to the County Board of Appeal and Equalization. {Add details about scheduling appointments or how to appeal to the county board.} You may also appeal to Tax Court. For more information on the Tax Court, go to <http://www.taxcourt.state.mn.us>.

Sincerely,

{insert name}

{insert title}

Frequently asked questions by local board members

What is the purpose of the Local Board of Appeal and Equalization?

One characteristic of the valuation (and to a lesser extent the classification) part of the property tax process is that there are subjective elements involved. Both mass appraisal and independent appraisal are inexact sciences. The property tax system has a method for property owners to appeal the decisions made by the assessor.

Effective actions taken by the Local Board of Appeal and Equalization may potentially make a direct contribution to attaining assessment equality. Any value reductions have the effect of shifting the property tax burden to other properties, so any changes made by the board must be justified.

On what basis should I make my decisions as a local board member?

You have an obligation to objectively listen to the property owner's appeal, which should focus on the market value and facts that impact the market value or the facts that focus on the classification. It is assumed that the assessor has valued the property correctly. The burden of proof rests with the property owner who must present factual evidence to disprove the assessor's value. For example, if the property owner states that his/her home is overvalued because it is located on a busy street, the property owner should present comparable sales also located on that street. The board would want to take that information under advisement. Then the board should ask for information from the assessor such as how the value of the property was determined. Again, any decisions made by the board should be based on facts because any reductions have the effect of shifting the property tax burden to other properties.

What options do property owners have if they are not satisfied with the local board's decision?

The property owner can:

- appeal by letter, representative or in person to the County Board of Appeal and Equalization (a property owner must appeal to the local board in order to maintain his/her right to appeal to the county board); and/or
- appeal to Tax Court.

What factors make up the valuation of property?

The critical question is whether the property is valued in excess of market value or a theoretical selling price as of January 2 of each year. The components that make up the market value are developed from vacant land sales, replacement cost schedules, abstraction from sales data, and other sources. The mass appraisal system includes both quantitative and qualitative variables.

Quantitative variables are objective characteristics, such as square footage, number of bathrooms or fireplaces, and other straightforward items. It is important that the property description is accurate to allow for a fair application of the mass appraisal schedule to the property.

Qualitative variables are more subjective in nature. They include the grading (or estimating the construction quality) of the property which always involves judgment.

Why do values change?

There are basically three reasons why values change.

Appreciation or depreciation in the real estate market. The assessor's office collects information on the local real estate market and adjusts property values annually in order to reflect the market. The requirement that the assessor actually view properties once every five years does not limit the assessor to revaluing properties once every five years. The assessor is required to review property values and classifications as of January 2 of each year.

Physical changes to improvements on the property.

Improvements such as building a deck or finishing the basement increase the value of the property, and the assessor would adjust the value to reflect these improvements. Similarly, the assessor should adjust the value for any structural components that may be removed.

Equalization process. The Commissioner of Revenue, acting as the State Board of Equalization, has the authority to increase or decrease values to bring about equalization. The State Board of Equalization orders changes in assessment when the level of assessment falls below 90 percent or above 105 percent. The orders are usually on a county-, city-, or township-wide basis for a particular classification of property. All State Board orders must be implemented by the county, and the changes are made to the current assessment year.

The equalization process is designed not only to equalize values on a county-, city-, and township-wide basis but also to equalize values across county lines to ensure a fair valuation process across taxing districts, county lines, and by property type. State Board orders are implemented only after a review of values and sales ratios, discussions with the county assessors in the county affected by the State Board orders, county assessors in adjacent counties and the Commissioner of Revenue.

Frequently asked questions by property owners

Is it legal for the assessor to increase my value so much in one year?

Yes. The assessor must value property at market value each year. Property values change continuously with changing economic conditions. There is no limit to the amount of increase or decrease in estimated market values in a given year. The assessor is required to review the values and classifications as of January 2 of each year.

When will the value increases stop?

This is impossible to predict. Market values are dictated by the market. If sale prices are increasing, estimated market values will increase. If sale prices are decreasing, estimated market values will decrease.

Why are my taxes so high?

Taxes are not within the authority of the local board. The property tax on a specific parcel is based on its market value, property class, the total value of all property within the taxing area, and the budget requirements of all local government units located within the taxing area. Only concerns relating to the current year valuation and/or classification may be heard by the local board.

Will I be taxed out of my home?

The local board cannot reduce tax amounts. There is relief for property classified as homestead. The market value homestead credit directly reduces the property

taxes on a parcel. In addition to the homestead classification, Minnesota provides property tax relief to homeowners through the Property Tax Refund program. This program has been around for many years and includes two different kinds of refunds: the regular refund and the special refund. The regular refund was designed to relieve the burden on homeowners whose property taxes are high in relation to their income. The special refund is for homeowners who experience a property tax increase of more than 12 percent (and at least \$100), regardless of their income level. Both of these refunds must be applied for using form M1PR from the Minnesota Department of Revenue. There are specific requirements for each refund, which are included in the M1PR instructions.

In addition, qualifying individuals may participate in the Senior Citizen Property Tax Deferral program. The basic requirements are that the owner(s) must be 65 years of age or older and have a household income less than \$60,000. This is a deferral of tax, not a reduction. The taxes accumulate along with interest at a rate not to exceed 5 percent and a lien is attached to the property.

Forms and instructions for the Property Tax Refund and Senior Citizen Property Tax Deferral program are available on the Department of Revenue website (<http://www.taxes.state.mn.us>).

Handouts for property owners

The following pages contain information for property owners to help them with the appeal process. You may photocopy these pages and provide them to property owners who seek to appeal their property value or classification.

The “Appealing the value and classification of your property” and “Preparing an appeal to your Local and County Boards of Appeal and Equalization” fact sheets also are on the Department of Revenue website (<http://www.taxes.state.mn.us>).

Appealing the Value or Classification of Your Property

1

Property Tax Fact Sheet 1

Fact Sheet

Each spring your county sends you a property tax bill. Three factors that affect your tax bill are:

1. the amount your local governments (town, city, county, etc.) spend to provide services to your community,
2. the **estimated market value** of your property, and
3. the **classification** of your property (how it is used).

The assessor determines the last two factors. You may appeal the value or classification of your property. This fact sheet discusses **estimated market value** and **classification** as shown on your **Notice of Valuation and Classification**. On the back, it tells you what you can do if you and the assessor disagree.

Estimated market value



Estimated market value is the amount the assessor estimates a buyer would pay for your property if it were offered for sale. Each year the assessor reviews the market valuation of your property to determine if changes in the real estate market or improvements to your property require a change in the estimated market value.

Classification and class rates



All property is classified by the assessor according to its use. Each class of property (home, apartment, cabin, farm, business) is taxed at a different percentage of its value. This percentage, or class rate, is determined by the state legislature. Like market value, the class rate of your property plays a significant role in how much property tax you pay.

Valuation and classification notice



Each spring, the assessor will mail you a **Notice of Valuation and Classification** informing you of the value and classification of your property. If you believe the classification or the estimated market value of your property is incorrect, you have several appeal options. The first step is to do some research.

Do your research



Begin by contacting the assessor's office.

- Verify information about your property, such as its dimensions, age and condition of its structures.
- Review records to determine the market value of similar property in your neighborhood.
- Review sales data to find out what similar property in your area is selling for.
- Check real estate ads in your newspaper to get an idea of the asking price of local properties.
- Ask the assessor to explain the criteria used for classifying your property. You may also review the classification of other property used in the same manner as yours.

Appealing your assessment



You have the right to appeal your market value estimate and/or property classification if you feel your property is:

- Classified improperly.
- Valued at an amount higher than you could sell your property for.
- Valued at a level different from similar property in your area.

First, **talk to the assessor** to discuss changing your assessment. If you and the assessor are unable to agree on your valuation or classification, more formal methods of appeal are available.

See reverse for formal appeal information →

Appeals

You can appeal to your local and county **Boards of Appeal and Equalization** or you can take your appeal directly to the **Minnesota Tax Court**. Or you can choose both options, in which case begin with the Local Board of Appeal and Equalization.

Local Board of Appeal and Equalization



If you choose to appeal to your boards of appeal and equalization, first meet with your Local (city or town) Board of Appeal and Equalization. These are usually the same people as your city or town council. The board meets on a specified day in April or May. The exact date is listed on your Notice of Valuation and Classification. **We strongly recommend that you call or write your city or town clerk to schedule your appearance.**

You may make your appeal in person, by letter, or have someone else appear for you. The assessor will be present to answer questions. **You must present your case to the city or town board before going to the County Board of Appeal and Equalization.**

Cities and towns have the option of transferring their board powers to the County Board of Appeal and Equalization. If your municipality has elected to do this, your Notice of Valuation and Classification will direct you to begin your appeal at the county level.

County Board of Appeal and Equalization



If you are not satisfied with the decision of the city or town board or if your city or town has transferred their powers to the county, you may appeal to the County Board of Appeal and Equalization.

This board meets in June. The exact date is listed on your Notice of Valuation and Classification. The members are usually the county board of commissioners or their appointees. **We strongly recommend that you call or write your county auditor or assessor to schedule your appearance before the board.**

You may make your appeal in person, by letter, or have someone else appear for you. The assessor will be present to answer questions. If you are not satisfied with the decision of the County Board of Appeal and Equalization, you may appeal to the Minnesota Tax Court.

Minnesota Tax Court



You have until April 30 of the year the tax becomes payable to appeal your assessment to the Minnesota Tax Court. In other words, you must appeal your 2004 valuation and classification on or before April 30, 2005.

The Tax Court has two divisions:

- A. The **small claims division** only hears appeals involving one of the following situations:
- The assessor's estimated market value of your property is less than \$300,000.
 - Your entire parcel is classified as a residential homestead (1a or 1b) and the parcel contains no more than one dwelling unit.
 - Your entire property is classified as an agricultural homestead (1b or 2a).
 - Appeals involving the denial of a current year application for homestead classification of your property.

The proceedings of the small claims division are less formal and many people represent themselves. **Decisions made by the small claims division are final and cannot be appealed further.**

- B. The **regular division** will hear all appeals—including those within the jurisdiction of the small claims division. **Decisions made here can be appealed to a higher court.**

Most people who appeal to the regular division hire an attorney because the hearing is conducted according to the Minnesota rules of civil procedure.

You may obtain complete information on Tax Court appeals by writing or calling the court administrator in your county or by contacting:

Minnesota Tax Court
Minnesota Judicial Center
Suite 245
25 Reverend Dr. Martin Luther King, Jr. Boulevard
St. Paul, MN 55115
(651) 296-2806
www.taxcourt.state.mn.us

Preparing an Appeal to Your Local and County Boards of Appeal and Equalization

10

Property Tax Fact Sheet 10

Fact Sheet

You have decided to appeal the valuation and/or classification of your property to your Local or County Boards of Appeal and Equalization. **You must appeal to the Local Board of Appeal and Equalization before appealing to your County Board of Appeal and Equalization.**

If you haven't done so already, you should contact your assessor's office before making a formal appeal to discuss changing your assessment. Often issues and concerns can be resolved at this level.



If you and the assessor were unable to agree on your valuation or classification you may decide to appeal to your Local and/or County Boards of Appeal and Equalization.

The general information contained in this fact sheet is applicable to preparing for appeals to both the Local and County Boards of Appeal and Equalization.

Successfully appealing your assessment

Minnesota law assumes that the County Assessor has correctly valued and classified your property. You must present factual evidence to convince the Board otherwise in order to win your appeal. Make sure all facts are presented, and the board understands the information presented, so a decision can be made based on facts.



Successfully appealing your value or classification at your Local or County Board of Appeal and Equalization can mean a number of things.

It does not necessarily mean that the board ruled in your favor and lowered your value or changed your classification.

Whether or not the local board decides to make a change in your estimated market value or classification, you can still be successful in appealing to your local board. The ultimate result you want to achieve is to make sure your value is warranted and the classification of your property is correct based on its use.

Preparing for your appeal

The first step is to do some research to collect information to show why you believe your estimated market value or classification is incorrect. Begin by contacting the assessor's office.



- Verify information about your property, such as its dimensions, age and condition of its structures.
- Review records to determine the market value of similar property in your neighborhood.
- Review sales data to find out what similar property in your area is selling for.
- Check real estate ads in your newspaper to get an idea of the asking price of local properties.
- Ask the assessor to explain the criteria used for classifying your property. You may also review the classification of other property used in the same manner as yours.

Gathering supporting evidence

You must have documentation to support your appeal. Items you may wish to bring to the meeting include:



- A recent appraisal of your property.
- Recent sales of similar property.
- Documentation supporting the use of your property (if you are appealing the classification).
- Copies of other property owners' field cards/property information.
- Photos of your property.
- Photos or exhibits comparing neighboring properties to yours.

If you should have questions, please don't hesitate to contact your assessor's office. Staff members are always willing to answer questions and give you information that will help you understand your assessment.

See page 2 for helpful hints →

Presenting your case

Remember, how you present your case may affect the outcome of your appeal – you want to be sure you get your point across as effectively as possible.

- Make a list of key points you may wish to present.
- The board has never seen your property. Describe your property so they will understand your arguments more fully. Photos can be helpful to support your argument.
- Keep your presentation brief and factual.
- Be prepared to discuss your case with the board or answer any questions that the board may have.



Other helpful information

Please keep in mind that taxes are not the issue. To strengthen your appeal, you should present evidence about your property's value or classification, not how much you are paying in taxes.



This fact sheet is not meant to give you legal advice. It is intended to be a helpful tool with general information for presenting your property tax appeal at your Local and County Boards of Appeal and Equalization.

Written appeals

You may also appeal your value or classification by submitting a letter of appeal to the board instead of appearing in person.

You will want to do your research and explain your appeal in writing. Your letter should state the facts and include supporting documentation. You may want to include your daytime phone number so you can be reached in case the board has any questions.

