



STATE REPRESENTATIVE

**SAMANTHA KERKMAN**

**Property Assessment-Related Bills**

**AB 575 / SB 429 – preliminary equalized property values**

**AB 576 / SB 430 – supervised revaluations & major class of property**

**AB 577 / SB 431 – suspending an assessor's certification**

Assembly Committee on Urban and Local Affairs

Wednesday, January 20, 2016

Good morning, Chairman Brooks and members of the committee. Thank you for giving me the opportunity to testify today in favor of a package of assessing-related bills: Assembly Bill 575, Assembly Bill 576, and Assembly Bill 577.

***Assembly Bill 575***

The idea for these proposals was prompted by an issue in my district in which the equalized values published by the Department of Revenue contained an error for the Village of Twin Lakes. Local officials spotted the error almost immediately, but DOR does not have the statutory authority to correct the error by changing the equalized value once the state's equalized values have been published on August 15<sup>th</sup>. Even if state statute would have allowed it, changing the equalized value for one village would have necessitated a corresponding adjustment to all other taxation districts.

Errors in equalized value are not uncommon and are corrected under a process in section 70.57 of the Wisconsin Statutes. Simply stated, an error made in one year is corrected in the next year by balancing an artificially high (or low) year with an artificially low (or high) one. The process works well for typical errors with minor impact. Village of Twin Lakes property taxpayers were ultimately insulated from wild fluctuations in their property tax bills across the 70.57 correction period by legislation that was passed to modify an existing loan program to local governments.

The Twin Lakes error led local officials to suggest a preview period for equalized values and prompted broader discussion of the assessment cycle. In every year since 2011, DOR has voluntarily made preliminary equalized values available in advance of the statutory August 15<sup>th</sup> publication deadline, giving assessors the opportunity to review them and the department the opportunity to correct problems before they impact property tax bills.

In the broader discussion of the assessment cycle, we identified additional opportunities for improvements which are also before you today as Assembly Bill 576 and Assembly Bill 577.

### *Assembly Bill 576*

Property tax is supposed to be assessed uniformly (Wisconsin Constitution Article VIII, Section 1). A specific requirement in law is that municipalities are required to assess property within ten percent of full value at least once every five years. Each major class must be within ten percent of the other major classes at least once every five years. Without adherence to these requirements, property taxes are not uniformly applied and everyone is not paying their fair share. DOR orders a state-supervised assessment after seven consecutive years of non-compliance. Assembly Bill AB 576 shortens this period to 6 years which allows assessments to be brought back into compliance – and the fairness of uniformity sooner.

### *Assembly Bill 577*

Finally, Assembly Bill 577 allows DOR to suspend an assessor's certification. Currently the department only has the authority to revoke a license, which it has rarely – if ever – done. Giving DOR the authority to suspend an assessor's certification provides an incentive for assessors to do their jobs well. This Journal Sentinel Watchdog Report on uneven property assessments does a good job of explaining the impact of assessing: <http://www.jsonline.com/watchdog/watchdogreports/277614021.html>. I have included copies of the article as a distribution to committee members.

Thank you for your consideration of proposals today, Chairman Brooks and committee members. I'm happy to take any questions you may have at this time.

TROUBLE WITH TAXES | WATCHDOG REPORT

## **Across Wisconsin, uneven property assessments fly in the face of fairness**

In dozens of communities, 20% or more of property taxes are being paid by the wrong people, analysis shows

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*By Raquel Rutledge and Kevin Crowe of the Journal Sentinel staff*

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Oct. 18, 2014 4:00 p.m.

James Fleischman and his wife, Barbara, have lived in their five-bedroom ranch on Applewood Drive in Glendale for about three decades.

In recent years, the assessed value of their house hovered around \$331,400, and they paid about the same in property taxes as their next-door neighbor.

But when the four-bedroom Cape Cod next door sold last year, all that changed. The assessor slashed the value from \$319,400 to \$249,900, a drop of nearly 22%.

That cut shaved \$1,642 off the new owners' tax bill.

When the Fleischmans opened their bill, they owed \$640 more. In fact, all the residents of Glendale whose property values didn't go down paid more.

That change in their neighbor's value didn't account for all of the Fleischmans' tax increase. Glendale officials had increased the overall tax levy, and the assessor had lowered a smattering of other residential properties.

But the change violated the state constitution, which was crafted to make the tax burden fair. Assessors are not supposed to modify values of individual properties based on market conditions unless they are revaluing entire neighborhoods or communities.

Yet assessors are doing it.

Regularly.

By measure after measure, in cities, towns and villages across Wisconsin, property assessors are discounting uniformity and trampling on fairness, while officials with the state Department of Revenue do little to rectify the disparities, an investigation by the Milwaukee Journal Sentinel has found.

In dozens of communities, 20% or more of residential property taxes are being paid by the wrong people, according to the Journal Sentinel's analysis of Department of Revenue records for each of the state's 1,852 municipalities. The analysis considered communities that had at least 20 sales last year; it did not include commercial property.

Assessors in 15% of municipalities statewide are doing "poor" work when it comes to residential property, as defined by the department's own standards, the analysis found.

"It gets a little frustrating," said James Fleischman. "You just live your quiet life and pay the price."

Under Wisconsin's system, reductions in value don't translate into lost revenue for municipalities. The tax load, or levy, is set by elected officials. It's just a matter of who pays it, much like squeezing the air in a balloon.

In Glendale, more than \$17 million in value was knocked off an assortment of residences in 2013 alone, amounting to about 2% of the municipality's overall residential property tax base.

The same goes for St. Francis, where the assessor lopped \$2.5 million off a patchwork of houses. And in Rock County's Town of Milton, where the assessor cut chunks from individual residential values when he wasn't reassessing whole neighborhoods.

In Milton, the cut in residential values contributed to a \$314 increase in taxes for a homeowner whose assessment remained unchanged at \$200,000.

Reductions are warranted only in isolated cases — for instance, if assessors or property owners discover errors were made in calculating the home's size, or if there was a fire or flood damage.

Several assessors with low marks defended their work, blaming a state law they say conflicts with the constitutional requirement that taxes be assessed uniformly. They vowed to continue their methods of assessment, even though the approach erodes communitywide fairness.

The disparities have intensified over the last three decades as more municipalities scrapped their assessment offices in favor of cheaper — and often more cursory — work by outside contractors. While the swap often saves the municipality as a whole tens of thousands of dollars, sloppy work winds up costing most residents far more on their tax bills than they personally saved from the switch.

Pressure from the recession and a real estate market full of properties selling for less than their assessed values have amplified problems in recent years. The state's 935 certified assessors — most facing such a situation for the first time in their careers — have responded in assorted ways, some quickly knocking values down for those who make the request. Others refusing.

State regulators have largely ignored the fairness issue.

"By them not policing assessors, they are screwing over millions of taxpayers across the state," said Shannon Krause, a 27-year veteran assessor who recently joined Wauwatosa's in-house assessing department. "It's a huge disservice."

Local officials have little incentive to fix the inequities. They collect the tax money regardless of what portion each property owner pays. And most local leaders don't realize how skewed the system has become.

Nor do the residents footing the bill.

Since 2008, an average of just 13 people a year have filed complaints with the state's Office of Assessment Practices. There are 3.9 million properties in the state.

"Everybody and their uncle can recognize a pothole when they go over it," said Rocco Vita, assessment administrator for the Village of Pleasant Prairie. "Nobody can recognize a poor assessment job."

## **The uniformity clause**

Founded on fairness in the late 1700s — even before Wisconsin became a territory — property taxes in Wisconsin are supposed to be determined uniformly. A two-bedroom ranch on Oak St. should be valued in the same way as similar ranches on the street and in the neighborhood. The tenet was written into the state constitution in the mid 1800s — Article VIII, Section 1:

"The rule of taxation shall be uniform..."

The uniformity clause was aimed at preventing state lawmakers and local leaders from favoring influential property owners and "to protect the citizen against unequal, and consequently unjust taxation," according to an 1860 court ruling.

Under state law, municipalities are required to have their overall level of assessments within 10% of fair market value once every five years. When values get too far out of whack, assessors are supposed to do full revaluations — meaning they inspect each property to make sure the information they have on file is accurate and to factor in current market conditions.

How often each of the state's 1,852 municipalities do full revaluations varies widely. Some do it every couple of years. Others wait 10 years or more.

Milwaukee does citywide market updates every year. While the city's 50-member assessment department doesn't physically inspect each of the 138,000 residential parcels, the team analyzes previous years' sales and considers adjustments to the values of all parcels each year based on market conditions.

Other communities rarely do such market adjustments.

Instead, most do "maintenance" work every year. This includes looking at permits where property owners may have added a deck, built a garage, or updated a kitchen. It also involves accounting for new construction, among other duties.

Much of the disparity occurs during these off years when full reassessments aren't done. That's a time — for the sake of uniformity — when assessors are not supposed to make changes to individual properties based on market conditions. If all property values are based on the same conditions, even if they all are over-assessed or under-assessed according to the current market, then everybody is still paying their fair share.

Otherwise, some property owners' payments are based on current economic conditions while others are paying based on past market conditions. Fairness is compromised.

Rachel Bocek was moving from Cudahy to Whitefish Bay when her house on Kimberly St. didn't sell — even when listed at more than \$20,000 less than the assessed value.

Bocek decided she would keep the property and in 2012 asked the assessor to reduce the assessed value. She said the assessor discouraged her.

"I'm pretty tenacious and persistent," Bocek said. "It's like anything now, with health care or property taxes, with more and more things you have to be proactive and do things yourself if you want things to be done."

Bocek pulled data from comparable sales and gathered the required documentation. She said she was able to successfully make her case, primarily because she is savvy and resourceful.

The assessor cut the value of her house from \$162,800 to \$134,800, contributing to a more than \$600 a year savings on her tax bill.

Asked about the change, Suzanne Plutschack, who does assessments for Cudahy, said it was more than the market that influenced her decision. The condition of the house played a role as well, she said. Plutschack did not physically inspect the property, however, relying instead on photos sent by Bocek.

It was a maintenance year for Cudahy property assessments and no wider-scope revaluation was done.

For Bocek's neighbors, values remained assessed between \$155,000 and \$169,000.

Their tax bills jumped about \$80 — in part due to cuts to other property values.

## 'Chasing sales'

Some of the best evidence that assessors are ignoring the uniformity clause is easy to spot: Look at a property that recently sold. Find out its sales price. Compare that with its newly assessed value.

If they match, it's a good indication that the assessor didn't do the required work.

Assessments on properties that recently sold are supposed to be based on a variety of factors aside from physical characteristics, including how long the house has been on the market, how well it was advertised and how it stacks up against the sale of comparable homes in the area. While the sales price is a key component, it should not be the sole component.

All those considerations would typically influence the assessed value, making it "phenomenal" that the value would land exactly on the sales price, according to Mary Reavey, assessment commissioner for the City of Milwaukee.

In some states, such as New Hampshire, what is termed "chasing the sale" is banned. But it has become commonplace in pockets of Wisconsin, the Journal Sentinel found.

In 24 communities around the state, at least 5% of the new assessments matched a property's selling price in 2013.

One private assessor in Racine County, Kathy Romanak, used the sales price to set the assessed value for a fifth of all properties that sold in the two communities she assessed in 2013.



Of the 92 properties that sold in the Town of Waterford and Village of Rochester last year, Romanak adjusted the values of 18 to match the sales price.

Other similar properties remained unchanged.

"Yeah, that is unfair but that's the rule," Romanak said in an interview. "What's the assessor supposed to do? If you tell (the property owner) 'No,' they're going to fight it and come to the Board of Review and the board will agree with them."

But her theory hasn't been tested in years.

Romanak said she can't recall the last time a homeowner appealed an assessment to the board, a quasi-judicial body typically made up of local officials, citizens and public employees.

By chasing sales, assessors manipulate one of the key measurements the Department of Revenue relies on to determine how well each assessor is doing his or her job.

Setting the value at the sales price makes it appear as if assessors are on target and masks the need for a full update. And the disparities linger until the next reassessment.

The Town of Waterford and Village of Rochester, for example, go seven years between revaluations.

Accurate Appraisals, the company that dropped the value of the Glendale house next to the Fleischmans, had the highest percentages of assessments matching sales prices of the state's three largest firms in 2013. The company assessed 10% of all the properties that sold across the state, but accounted for about 25% of all the "chased sales," the Journal Sentinel analysis found.

Aside from Glendale, Accurate has contracts with about 100 other communities around the state, including Germantown, Bayside, Shorewood and until last year, Brown Deer.

In 2011, the company assessed the values of 26% of the homes that sold in Glendale to exact sales prices.

The statewide average is less than 2%.

Jim Wronski, former longtime assessor for Shorewood, said assessors often take their cue from how much elected officials seem to care about the quality of assessments.

"The more aggressive you are, the more complaints and more heat on you," Wronski said of assessors. "It boils down to what does the municipality admire, welcome and want. The contractor picks up on that: 'What do these people really want me to do and what are they going to pay me?'"

## **Assessments not so subjective**

Conducting assessments is a methodical process, based on measurements and facts such as age of the home, square footage, number of bedrooms and bathrooms, size of garage — more like an algebraic equation than a literary critique.

While assessors are allotted a certain amount of discretion when it comes to determining the overall condition of properties — using poor, fair, average and good, and ranking quality of construction with A's, B's and C's — the most heavily weighted criteria are mostly objective and are plugged into a statistical computer model.

For instance, a bath fixture is typically worth about \$510. A 320-square-foot deck adds \$3,250 to the value. A fireplace: \$3,855, according to 2014 figures for new construction.

Despite the many specific standards for calculations, the Department of Revenue fails to ensure assessors adhere to the approach.

Under state statutes, the department certifies assessors and has authority to revoke their certification for misconduct. State law requires the department to supervise assessors in the "performance of their duties" and to direct enforcement of the laws governing property tax assessments.

Yet the department doesn't acknowledge serious problems with fairness.

"I'm not up on any statistics," said Scott Shields, the director of assessment services, when asked about the chasing of sales. "I haven't heard anything about that."

Officials couldn't say when was the last time that they had revoked an assessor's certification. Records are kept for only 10 years.

"Revocation is a last resort," former department spokeswoman Laurel Patrick, now press secretary for Gov. Scott Walker, wrote in an email earlier this year.

"We don't jump from nothing to revocation. ... The standard for revocation is high."

The department doesn't have the authority to suspend an assessor's certification or impose other lighter punishment, she said.

In 2012, revenue officials received a complaint about Accurate's work in Germantown.

They followed up on the complaint — filed by a software engineer who works for a company affiliated with a competing assessment firm — and found "misconduct" among Accurate's assessors. Department officials cautioned the company's owners for changing values for individual properties following sales, noting that it is in "direct conflict" with rules.

Shields chose not to pursue revocation against Accurate's assessors, citing "no prior instances of this misconduct on file," according to a January 2014 letter to Germantown officials.

Jim Danielson, co-owner of Accurate, said the department's policies and state statutes that call for assessors to consider market value are in conflict and that his company's work did not constitute misconduct.

"Misconduct is me changing my buddy's assessment," Danielson said. "I'm trying to do this right. I'm not intentionally doing anything wrong."

He said state legislators and Department of Revenue officials need to clarify the proper method.

"If you don't change that one property you're violating the law: You're assessing over market value. If you do, you're violating uniformity," he said. "The manual and the laws need to be cleared up. They don't coincide."

Yet Accurate's assessors don't consistently follow that approach. Danielson said they make such adjustments only when property owners complain. So if a property sold for less than the assessed value and the owner didn't push for a reduction, the value would stay as it was before the sale.

Department officials warned Danielson and his partner, Lee De Groot, to stop making individual changes based solely on market conditions unless they are revaluing the whole neighborhood. Officials promised to monitor Accurate's assessment work in Germantown in 2014.

Nobody in the Department of Revenue told the dozens of other communities that contract with Accurate of the problems found with the company's work.

## **Problems are longstanding**

Concerns about property tax fairness might sound familiar to longtime Wisconsinites.

The Department of Revenue did a study 20 years ago on assessment practices and found Wisconsin's system was widely perceived as unfair by the public and was "in need of substantial change."

Then-secretary of the department, Mark Bugher, anticipated that proposed reforms would meet resistance but said uniformity was critical and the changes were necessary.

"The goal of tax equity is of such central importance that we believe (the reforms) should be vigorously pursued," Bugher wrote in a Dec. 30, 1994, letter to then-Gov. Tommy Thompson.

The study called for consolidating assessment practices, possibly to the county level, to "improve legitimacy by consistently applying more rigorous assessment standards."

"Wisconsin will have to make a choice between a relatively low-cost, higher decentralized assessment system, or a higher cost and more centralized model," authors of the study concluded. "We can't have it both ways."

But the study didn't spur major reforms.

Dale Knapp, research director with the Wisconsin Taxpayers Alliance, said overhauling the assessment system in Wisconsin is a subject that surfaces every 15 or 20 years but soon fizzles.

Knapp suspects one of the reasons it doesn't gain steam is that most residents don't realize the extent of the problems. His Madison-based nonprofit research organization fields calls every day from taxpayers. While people complain about their property taxes, they don't understand how they work and are unaware of the fairness issues.

"The vast majority are just confused by the whole system," he said.

As it is, standardization is a long way off. While the Department of Revenue has attempted to improve oversight by encouraging municipalities to use standardized contracts and requiring additional and electronic reporting by assessors in the last few years, assessors statewide continue to struggle to get it right, and taxpayers are paying the price.

Consider R&R Assessing Services, which has 33 contracts across the state, including several in Oconto and Shawano counties. In its analysis of municipalities with 20 or more sales, the Journal Sentinel found the company's assessments — by the Department of Revenue's definition — were "poor" in three of four communities.

Same goes for Ringlemon Appraisal Services, which has more than two dozen contracts in Adams, Sawyer, Wood and other counties. The company's assessments in nearly 75% of communities had a "poor" rating, according to the analysis.

Claude Riglemon, owner of the company, said he knows his numbers don't look good. He blamed the problem on low sales prices from the depressed housing market coupled with reluctance by village and town leaders to spend money on revaluations.

"They balk at the cost," he said. "Meanwhile this gap (in assessed values vs. market values) gets wider and wider."

Sixteen percent of Accurate's municipalities with 20 or more sales are ranked as having poor assessments.

The department's definition of "poor" stems from assessors having a wide difference between assessed values and sales prices. Essentially, the assessors are missing the mark and the assessments are not uniform. In those communities, 20% or more of the taxes are being paid by the wrong people. Some are paying more and others are paying less than their "fair share."

Robert Strauss, an economics professor at Carnegie Mellon University in Pittsburgh and a national expert on property tax assessments, said there is no reasonable excuse for an assessor to be off by 25% or more in either direction for residential properties.

"That's a 50% range," Strauss said. "He or she should be fired."

Strauss did a national study in 1998 that found Wisconsin had the 41st worst record in the country for uniformity.

Those in the field note that assessing a property is not like going to the grocery store and buying a bag of rice, where everybody pays the same price. Even condos with the exact same assets will sell at slightly different prices. For example, the owner may need to sell quickly; the buyer may be desperate.

But the goal is to be as close as possible to actual market value. An overall number within 10% of market value — above or below — is considered "good" under department standards.

Amie Trupke, a property tax attorney who represents municipalities across Wisconsin, said poor performance and lack of uniformity are concerns but that when considering appeals, the courts pay more attention to the individual property in question.

"I don't think it's black and white," said Trupke, of Madison-based Stafford Rosenbaum. "There is a conflict ... It's a gray area when there's a great shift in the market. There are legitimate arguments on both sides."

Trupke said property owners ought to regularly monitor the sales in their neighborhoods and that the burden is on them to object if they don't agree with their assessed values.

"If the neighbor is that concerned, the neighbor has the opportunity to challenge his assessment as well," she said.

## **'It's a little game we play'**

Wauwatosa resident Anthony Aveni pays attention to the values in his neighborhood and sees himself as an activist.

"I'm aggravated and am constantly beating them back," he said of local officials collecting taxes.

Aveni complained about the \$251,500 assessed value of his house on Church St. in 2012.

"It's just ridiculous," Aveni said of the assessment. "It's a mouse house. It's around 1,000 square feet and has no historical value."

Aveni said he called the assessor and argued for the value to be lowered.

"It's a little game we play," he said. "They over-assess, I go complain. I don't just roll over."

The assessor looked for justifiable reasons, tinkered with the basement square footage, Aveni said, and dropped the value 14% to \$216,300.

"He may have found a mistake or just figured 'I have to shut him up,'" Aveni said of the assessor.

The cut saved Aveni \$646 on his tax bill.

It was a maintenance year for Wauwatosa, and Aveni's neighbors' assessments remained unchanged.

Their tax bills went up.

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## How we identified problems in Wisconsin's assessments system

Oct. 18, 2014 4:00 p.m.

Wisconsin's property tax system was built on the principle of fairness – properties of the same size, age, style and condition should be assessed in comparable ways. To identify problems throughout the state, the Milwaukee Journal Sentinel used three primary tools. Each has its limits, but taken together they expose trends and problems.

In addition, we examined values for every residential property in five southeastern Wisconsin counties -- Milwaukee, Waukesha, Ozaukee, Washington and Racine. If values of individual properties fell in an off year, we flagged them for a closer look. We found properties in municipalities across the region demonstrating each of the problems identified in our data analysis.

**Changes in non-reassessment years.** Cities and towns are not required to reassess all of their properties every year – and most do not. In years when a communitywide reassessment is not done, state guidelines call for the value of individual properties to generally remain the same. In these so-called “maintenance” years, values are only supposed to change based on such things as fire damage, demolitions or additions to a property.

We examined assessors' reports for all 1,852 municipalities in Wisconsin for 2013, and found assessors in 34 communities cut a patchwork of residential values in a maintenance year by what amounted to at least 2% of a community's residential assessed value. In 10 communities, the drop in a spattering of single properties wiped 8% or more off the total taxable amount. Similar drops happened in 2012.

In the City of Glendale, for example, more than \$17 million in value was knocked off individual residences in 2013 alone, amounting to about 2% of the municipality's residential

property tax base. And in Rock County's Town of Milton, cuts to an assortment of residential assessments contributed to a \$314 increase in taxes for a homeowner whose assessment remained unchanged at \$200,000.

**Chasing the sale:** Once a home is sold, if the assessments match the sales price, it must mean the assessor is doing a good job, right? Wrong. This is termed "chasing the sale" – a practice that is outlawed in some states and in Wisconsin is against Department of Revenue policy.

While the sales price is a key factor that is considered by assessors, there are many other factors that must be considered – how long a house was for sale, how well it was marketed, the condition of the property and comparable sales. All of that makes it highly unlikely the assessed value would exactly match the sale price. Yet, our analysis found this happening time and again.

**Coefficient of dispersion:** That's a statistical measurement used to determine how close assessors are in their assessment of properties compared to the selling price. Indeed, one way to try to manipulate this number is to use the technique above, and set the value of properties that sold at the sales price.

The state Department of Revenue gathers all of this data and considers a number of 10 or below to indicate "good" performance and anything 20 or higher to signal "poor" work. In other words, 20% or more of the taxes are being paid by the wrong people.

When we crunched the statewide numbers, we found assessors in 72 municipalities doing poor work. (Our analysis looked at municipalities with 20 or more sales in 2013.)

**Searchable database:** View a full list of municipalities by rank.