

City of New Berlin Informational Guide on Appearing Before the Board of Review 2013

If you are not satisfied after informally discussing your assessment with the City Assessor, your next recourse is to apply for a formal hearing before the Board of Review. This Board consists of five citizens of the City of New Berlin appointed by the Mayor and approved by the Common Council. They conduct an opening hearing, much like a court, and listen to the testimony, ask questions for clarification, and then make their decision. This process usually takes no more than 30 minutes.

What are the responsibilities of the objecting owner before and at the Board of Review?

Objecting property owners have to meet certain requirements and responsibilities before appearing at the Board of Review and while at the Board of Review as follows:

- Provide written or oral notice of intent to file an objection to the clerk of the Board of Review at least 48 hours before the first scheduled Board of Review meeting. In addition, a written and signed form of objection to property assessment must be filled out and filed with the Board's clerk within the first 2 hours of the Board of Review's first scheduled meeting. The City Clerk can supply you with the objection form, which must be approved by the Department of Revenue.
- Complete the entire written objection form and file it with the Board of Review. This must be done prior to or during the first two hours of the first meeting. The form must be completely filled out to the best of your knowledge. This includes providing an estimate of value. Return your completed objection form to the City Clerk's Office.
- You must object to the **total value** of the property. You cannot object to only the land value or only the improvement value.
- Allow the assessor to view the property. Persons cannot appear before the Board to contest assessments if they have refused reasonable written requests, sent by certified mail, to view their property.
- Present factual evidence first-evidence that supports the opinion of value stated on the objection form. You may then ask the assessor questions.
- Hire legal counsel or other suitable representation if unable to attend the Board of Review.

What are the duties of the Assessor at the Board of Review?

The assessor must defend all assessments at the Board of Review. Not defending assessments at the Board of Review would violate the sworn affidavit the assessor signed and thus would violate the law. At the Board of Review, the assessor should:

- Attend all hearings and allow the property owner, the property owner's attorney, or the Board members to examine the assessor's testimony under oath.

- Take to the Board all books and records necessary to explain the assessor's work. Full disclosure is a requirement.
- Support the assessor's affidavit; do not contradict or impeach it. To impeach the assessor's affidavit means to contradict it.
- Serve as the municipality's expert witness. Declare facts relative to the values placed on the assessment roll.
- Choose representation by counsel, if desired. The municipal attorney represents the municipality and the Board members and cannot also represent the assessor.
- Ask questions of the property owner and Board members. The Board will ensure that people treat each other respectfully and that all parties focus on the issues before it.
- Testify to all factors necessary to support the assessed value on appeal beyond the Board of Review.

NOTE:

Understand that the record set at the Board of Review is the Record examined throughout the rest of the appeal process. Therefore, it is important to establish a complete evidence base At this level and provide all parties appropriate legal advice.

What are the general procedures at the Board of Review?

The Board shall hear under oath all persons who appear before it. They can take evidence by telephone from ill or disabled persons who have presented a letter from a physician, surgeon, or osteopath that confirms their illness or disability. The Board of Review hearing shall proceed as follows:

- The clerk shall swear all persons testifying before it in relation to each contested assessment.
- The owner, or the owner's representatives and witnesses should be heard first.
- The Board may examine under oath; such persons as it believes have knowledge of the value of the property being appealed.
- The Board may require witnesses to attend a Board of Review hearing. If assessors request witnesses, the Board will require witnesses to attend. The Board can allow objectors to testify by telephone. The Board may require the presence of records and documents to help show the value of properties in question.
- A stenographer or tape recorder should record all proceedings and shall be paid by the municipality. The Board may order a transcription of the testimony presented at the hearings. In cases of an appeal or other court proceedings, testimony must be transcribed. Even though the proceedings are recorded, members of the Board should still take notes of testimony given. These notes provide a source of reference when reaching a decision on a property owner's objection.

- During any meeting, if it determines that some of the written objections cannot be heard at the scheduled time, the board creates a new schedule and abides by the 48-hour notice requirement.
- The Board enforces (and in some cases waives) the requirement for objections to be filed timely in a manner consistent with state law.
- The Board removes members under specific circumstances as described in state law.
- The Board requires that objection forms include stated valuations of the property in question.
- The Board makes all determinations by roll call vote.
- Barring a sufficient showing by the objector to the contrary, the Board should assume that the assessor's valuation is correct.
- As a result of its deliberations, the Board must state on the record the correct assessment and that the assessment is reasonable in light of all relevant evidence that the board received.
- The Board should not adjourn to a future date without setting the hour and day they shall meet. A notice of such an adjournment should be posted on the outer door of the meeting place. Prior to the final adjournment, the Board of Review shall provide to all parties contesting an assessment, (1) written notice of the amount of the assessment finalized by the Board and (2) an explanation of appeal rights and procedures.

Can property owners appeal part of their assessment?

No. Property owners can only appeal the total value of a parcel. They may not object to only the land or only the improvement values. In support of their appeal, property owners should completely fill out the objection form and declare their opinion of the fair market value of the property.

What type of evidence is available to the Board?

The Board can only consider the sworn oral testimony of witnesses appearing before it. Courts have held that if appropriate credible evidence is presented to the Board showing the assessor's valuation to be incorrect, such evidence "cannot be disregarded by the Board." In other words, the Board must consider it.

Boards of Review can request additional evidence. At the request of the assessor, the Board can compel witnesses to appear for questioning. The law allows ill or disabled objectors to testify by telephone if a letter from a physician, surgeon, or osteopath confirms their illness or disability. The municipality must pay for the call.

In addition to oral testimony, the Board can also subpoena books, records, appraisals, documents, and any other data that may help to understand the issue. If the objector's or the

assessor's valuation was made using the income approach, the objection should not be heard unless the objector supplies to the assessor all of the necessary income and expense information the assessor requests.

The assessor must give the Board any information relating to the appealed assessment. In addition, the assessor should prepare to present the facts and valuation methods used in developing the assessments. The information presented should help the Board to determine if the assessment is correct. The objection form can contain written testimony or contain exhibits to become a part of the Board of Review proceedings.

Need all testimony be given under oath?

Yes. As previously stated, the Board can only consider sworn oral testimony of witnesses appearing before it. Only evidence given under oath is binding. Where no evidence under oath is offered before the Board, the Board has no authority to change the valuation.

In addition to sworn oral testimony, an objector must also specify in writing, the person's estimate of the value of the land and of the improvements that are the subject of the objection and specify the information that the person used to arrive at that estimate.

How should the Board reach a decision?

After the Board has heard all the evidence, it must deliberate to reach a decision. The deliberation process is open to the public and is done in one of the following ways:

1. deliberate after each objection is heard, or
2. deliberate after all objections are heard, or
3. deliberate periodically during the time that the Board is open.

From the evidence before it the Board should determine if the assessor's valuation is correct.

How can a property owner appeal a Board of Review decision?

The Board of Review is the first step in the property assessment appeal process. The next step is to contest the Board of Review decision to a higher review authority. However, if property owners have not contested their assessment before the local Board of Review, no other reviewing authority will hear their case. There are two options for appealing a Board of Review decision. Property owners can do the following:

1. appeal to the Department of Revenue, or
2. appeal to circuit court.