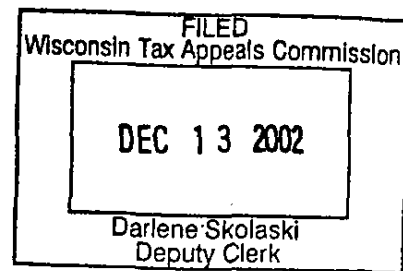
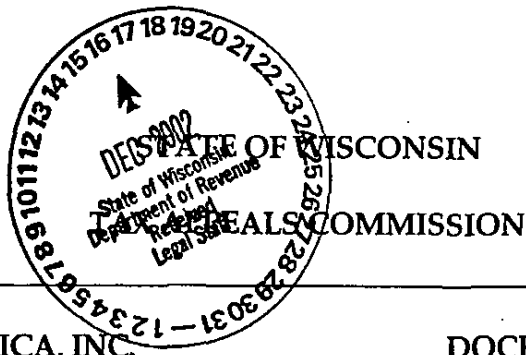


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APV NORTH AMERICA INC 01M220 121302 TAC



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APV NORTH AMERICA, INC.
100 South CP Avenue
Lake Mills, WI 53551,

DOCKET NO. 01-M-220

Petitioner,

vs.

RULING AND ORDER

WISCONSIN DEPARTMENT OF REVENUE
P.O. Box 8907
Madison, WI 53708-8907,

Respondent.

DON M. MILLIS, COMMISSION CHAIRPERSON:

This matter comes before the Commission on respondent's motion to dismiss the petition for review for lack of subject matter jurisdiction. Both parties have filed supporting papers and briefs with respect to respondent's motion. Petitioner is represented by Wisconsin Property Tax Consultants, Inc., by Attorney William B. Ardern II. Respondent is represented by Attorney Sheree Robertson.

Based on the submissions of the parties and the entire record in this matter, the Commission finds, concludes, rules, and orders as follows:

FACTS

1. Petitioner is the owner of manufacturing property ("the property") located in the City of Lake Mills that was assessed by respondent as of January 1, 2001 in the total amount of \$6,889,700.

2. On July 25, 2001, petitioner filed a timely objection to the assessment with the State Board of Assessors, asserting that the total value of the property assessed should be \$6,000,000. This value is based on petitioner's asking price for the property, which was for sale when the objection was filed.

3. Subsequent to filing its objection, petitioner entered into negotiations to sell the property to Hampton Advisory Corporation ("Hampton").

4. On October 16, 2001, the State Board of Assessors issued its Notice of Determination establishing a total assessed value for the property at \$6,000,000.

5. Subsequent to the issuance of the Notice of Determination, but prior to filing the petition for review with the Commission, petitioner and Hampton agreed in principle to sell the property for \$4,400,000.

6. On December 14, 2001, petitioner filed a petition for review with the Commission asserting that the assessment should be reduced further to \$4,400,000.

7. Petitioner sold the property to Hampton as of January 4, 2002, for \$4,400,000.

CONCLUSION OF LAW

The Commission lacks subject matter jurisdiction over the petition for review because petitioner was not aggrieved by the action of the State Board of Assessors.

RULING

In order to appeal a determination of the State Board of Assessors, petitioner must be a person who is aggrieved by the Board's determination. Wis. Stat. § 73.01(5)(a). Chapter 73 of the Wisconsin Statutes does not provide a definition of a person aggrieved.

However, section 227.01(9) defines a "person aggrieved" as a person "whose substantial interests are adversely affected by a determination of an agency." Because chapter 227 has some applicability to appeals from respondent to the Commission,¹ this definition applies to appeals under section 73.01(5)(a).

In *Madison Landfills, Inc. v. Dep't of Natural Resources*, 180 Wis. 2d 129 (Ct. App. 1993), the Court of Appeals construed the definition of "person aggrieved" in section 227.01(9) in the context of a landfill feasibility order. The Court of Appeals held that the landfill opponents were not aggrieved by an agency order that determined that the landfill they opposed was not feasible. The opponents sought a determination that the landfill was not feasible, and that's what they received. Even though the opponents disagreed with other portions of the feasibility order, the Court of Appeals ruled they had no entitlement to seek review of the agency order because they received the relief they requested. *Id.* at 140-41.

In this case, petitioner got exactly what it asked for: an assessed value of \$6,000,000 as of January 1, 2001. Petitioner cannot be aggrieved by this determination of the State Board of Assessors.

Petitioner claims that the Board has a practice of setting the assessed value at 80% to 85% of the asking price of a property. If this was petitioner's understanding, it should have asked the State Board of Assessors to establish an assessed value of \$4,800,000 to \$5,100,000, or even lower, to cover the possibility that the property would sell for a

¹ See, *Burlington Northern Railroad Company v. Dep't of Revenue*, Wis. Tax Rptr. (CCH) ¶ 400-620 (WTAC 2002).

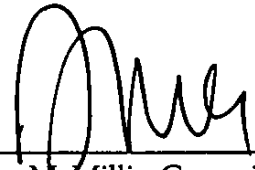
lesser amount. Petitioner has no one to blame but itself. Petitioner received the relief it asked for, and, as a matter of Wisconsin law, it is simply not aggrieved by the determination of the State Board of Assessors.

ORDER

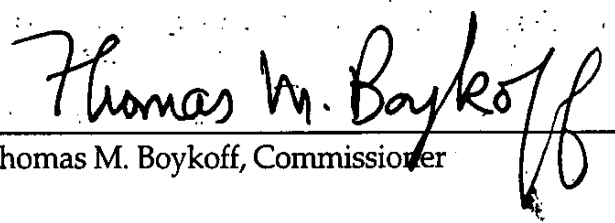
Respondent's motion to dismiss is granted, and the petition for review is dismissed.

Dated at Madison, Wisconsin, this 13th day of December, 2002.

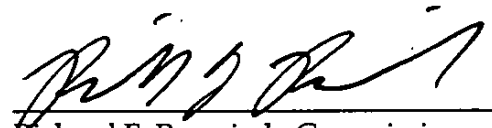
WISCONSIN TAX APPEALS COMMISSION



Don M. Millis, Commission Chairperson



Thomas M. Boykoff, Commissioner



Richard F. Raemisch, Commissioner

ATTACHMENT: "NOTICE OF APPEAL INFORMATION"