

STATE OF WISCONSIN  
TAX APPEALS COMMISSION

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DOMTAR A W CORP,

Petitioner,

DOCKET NOS.

10-M-85, 10-M-86,  
10-M-87, 10-M-88,  
10-M-89, 10-M-91,  
10-M-93, 10-M-94,  
11-M-33, 11-M-34,  
11-M-35, 11-M-36,  
11-M-37, 11-M-39,  
11-M-41, 11-M-42,  
11-M-338, 11-M-339,  
11-M-340, 11-M-341,  
11-M-342, 11-M-344,  
11-M-346, AND  
11-M-347

vs.

WISCONSIN DEPARTMENT OF REVENUE,

Respondent,

AND

VILLAGE OF PORT EDWARDS,

Intervenor.

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**DECISION & ORDER**

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**ROGER W. LeGRAND, COMMISSIONER:**

These matters come before the Commission pursuant to the Petitions for Review filed by Petitioner, Domtar A W Corporation ("Domtar") on April 16, 2010, January 25, 2011, and December 5, 2011, respectively. A trial was held in these matters before Commissioner Roger W. LeGrand, on November 11-13, 2013, and continued on

November 19-20, 2013. Domtar is represented in these matters by Attorneys Joseph A. Pickart and Jennifer H. Jin of the law firm of Whyte Hirschboeck Dudek S.C., Milwaukee, Wisconsin. The Respondent, the Wisconsin Department of Revenue (the "Department"), is represented by Attorney Peter D. Kafkas, Madison, Wisconsin. Intervenor, Village of Port Edwards, is represented by Attorney J. P. La Chapelle of the law firm of Brazeau, Wefel, Kryshak and Nettesheim, LLP, Wisconsin Rapids, Wisconsin.

Following the trial, the parties filed briefs. Based upon the proceedings at trial, the exhibits received at trial, and the entire record, the Commission finds, decides, concludes, and orders as follows:

**FINDINGS OF FACT**

*Jurisdictional Facts*

**A. Appeals Filed in April 2010**

On April 16, 2010, Petitioner filed several Petitions for Review of Determinations by the State Board of Assessors for Manufacturing Property with respect to the tax year ending December 31, 2009. The Petitions for Review were docketed as follows:

<b>Docket No.</b>	<b>Assessment Computer No.</b>	<b>Parcel No.</b>	<b>Land Value</b>	<b>Improvement Value</b>	<b>Total Assessed Value</b>
10-M-85	81-71-171-R000350	27-00071A	\$34,900	\$0	\$34,900
10-M-86	81-71-171-R000400	27-00079A	\$19,400	\$77,100	\$96,500
10-M-87	81-71-171-R000450	27-00081	\$386,200	\$12,949,700	\$13,335,900

<b>Docket No.</b>	<b>Assessment Computer No.</b>	<b>Parcel No.</b>	<b>Land Value</b>	<b>Improvement Value</b>	<b>Total Assessed Value</b>
10-M-88	81-71-171-R000500	27-00081A	\$33,300	\$844,700	\$878,000
10-M-89	81-71-171-R000550	27-00081B	\$20,300	\$34,900	\$55,200
10-M-91	81-71-171-R000650	27-00082	\$20,000	\$430,800	\$450,800
10-M-93	81-71-171-R000750	27-00087	\$5,400	\$0	\$5,400
10-M-94	81-71-171-R000800	27-00092A	\$36,000	\$0	\$36,000

### B. Appeals Filed in January 2011

Similarly, on January 25, 2011, Petitioner filed several additional Petitions for Review of Determinations by the State Board of Assessors for Manufacturing Property with respect to the same properties but for the tax year ending December 31, 2010. The Petitions for Review were docketed as follows:

<b>Docket No.</b>	<b>Assessment Computer No.</b>	<b>Parcel No.</b>	<b>Land Value</b>	<b>Improvement Value</b>	<b>Total Assessed Value</b>
11-M-33	81-71-171-R000350	27-00071A	\$34,900	\$0	\$34,900
11-M-34	81-71-171-R000400	27-00079A	\$19,400	\$77,100	\$96,500
11-M-35	81-71-171-R000450	27-00081	\$386,200	\$12,949,700	\$13,335,900
11-M-36	81-71-171-R000500	27-00081A	\$33,300	\$844,700	\$878,000
11-M-37	81-71-171-R000550	27-00081B	\$20,300	\$34,900	\$55,200
11-M-39	81-71-171-R000650	27-00082	\$20,000	\$409,300	\$429,300
11-M-41	81-71-171-R000750	27-00087	\$5,400	\$0	\$5,400
11-M-42	81-71-171-R000800	27-00092A	\$36,000	\$0	\$36,000

### C. Appeals Filed in December 2011

On December 5, 2011, Petitioner filed a third group of Petitions for Review of Determinations by the State Board of Assessors for Manufacturing Property with respect to the same properties but for the tax year ending December 31, 2011. The Petitions for Review were docketed as follows:

<b>Docket No.</b>	<b>Assessment Computer No.</b>	<b>Parcel No.</b>	<b>Land Value</b>	<b>Improvement Value</b>	<b>Total Assessed Value</b>
11-M-338	81-71-171-R000350	27-00071A	\$34,900	\$0	\$34,900
11-M-339	81-71-171-R000400	27-00079A	\$19,400	\$77,100	\$96,500
11-M-340	81-71-171-R000450	27-00081	\$386,200	\$12,949,700	\$13,335,900
11-M-341	81-71-171-R000500	27-00081A	\$33,300	\$844,700	\$878,000
11-M-342	81-71-171-R000550	27-00081B	\$20,300	\$34,900	\$55,200
11-M-344	81-71-171-R000650	27-00082	\$20,000	\$409,300	\$429,300
11-M-346	81-71-171-R000750	27-00087	\$5,400	\$0	\$5,400
11-M-347	81-71-171-R000800	27-00092A	\$36,000	\$0	\$36,000

### FINDINGS OF FACT

1. Domtar is a pulp and paper manufacturer, producing many different grades of paper, including free sheet copy paper.
2. Domtar sells most of its products in North America to paper merchants who resell the paper directly to paper converters for further processing.

3. In 2001, Domtar acquired, from Georgia-Pacific, a pulp and paper mill in Port Edwards, Wisconsin (the "Port Edwards Mill").

4. The Port Edwards Mill was constructed in the late 1800s and, as an older mill, was less automated than modern mills.

5. Within the industry, the Port Edwards Mill was a smaller mill and, as such, could not compete with bigger mills on larger orders. As a result, Domtar used the Port Edwards Mill for fulfilling smaller orders in niche markets.

6. The Port Edwards Mill was used for chipping, pulping, papermaking, finishing, and storage. In simple terms, Domtar would create pulp, run that pulp through paper machines to make paper, send the paper through the finishing process, and then send the paper on for storage or shipping.

7. The Port Edwards Mill was a "fully integrated mill," meaning it also produced its own pulp.

8. In 2008, Domtar announced the closure of the Port Edwards Mill. According to Domtar, the closing was a business decision based upon the decline of Wisconsin's paper industry and the fact that the Port Edwards mill was the worst performing unit in Domtar's operation.

9. Domtar's witnesses testified that the Port Edwards Mill was outdated and that the paper industry had been declining since the 1990s.

10. Domtar still operates another paper mill a few miles downriver from the Port Edwards Mill, in the city of Nekoosa, Wisconsin. Some of the parcels under appeal continue to support the Nekoosa mill site.

11. After the closing of the Port Edwards Mill, some equipment was moved to the Nekoosa mill site. Other equipment at the Port Edwards Mill was rendered inoperable so that it could not be used in paper production.

12. Domtar never intended to reopen the Port Edwards Mill as a paper production facility nor sell it to a competitor for use as a paper mill.

13. Because Domtar's real property on which the Port Edwards Mill sits is classified as manufacturing property, the Department is responsible for setting the assessments for real estate tax purposes. Thus, the Department valued the individual properties at issue in these cases.

14. In early 2010, Domtar filed objections to the 2009 assessment of 14 of its parcels, and additional appeals were subsequently filed for the tax years 2010 and 2011.

15. Approximately 3 years after filing the appeals on the 14 parcels, Domtar withdrew appeals on 6 of the parcels; the remaining 8 parcels are the subject of these cases.

16. The Port Edwards Mill itself is located on the parcel assessed as parcel No. 27-00081. It rests on 33.440 acres with direct access to the Wisconsin River. For the years at issue, the hydroelectric power plant building square footage was assessed with the Port Edwards Mill, as it had been since the Department began assessing the mill site 35 years ago. The total assessed square footage of the Port Edwards Mill real property unit included the improved square footage and value of the hydroelectric power plant.

17. With the inclusion of the hydroelectric power plant building, the Port Edwards Mill site is well situated for continued use as a paper mill.

18. Domtar, through its counsel, hired Mr. Anthony Wells, a licensed real estate appraiser with American Appraisal, to appraise the Port Edwards Mill site. Domtar and its attorney instructed Wells on what to include and what not to include in his appraisal.

19. Mr. Wells prepared a summary appraisal report in 2012, setting forth a retrospective market value for the Port Edwards Mill as of January 1, 2009, January 1, 2010, and January 1, 2011.

20. Mr. Wells' final appraisal included the 8 parcels under appeal, but valued them all as a single economic unit and it did not include the hydroelectric facility.

21. Mr. Wells concluded that the highest and best use of the Port Edwards Mill for each of the years at issue was for redevelopment.

22. Mr. Wells opined that the aggregated market value of the 8 parcels under appeal for each of the years 2009, 2010, and 2011 was \$2,300,000, of which land was \$450,000 and improvements were \$1,850,000.

23. Michael Maternoski was the Department employee responsible for arriving at the January 1, 2009 assessment of the Port Edwards Mill. Mr. Maternoski is certified by the State of Wisconsin to do assessments of manufacturing property.

24. Mr. Maternoski concluded that the highest and best use of the Port Edwards Mill was as an operating pulp and paper mill. He reached this conclusion for

the 2009 assessment because at the time he viewed the property it had not shut down entirely and was capable of being restarted within a month.

25. Richard Arnold, a property assessment specialist (Certified Assessor 2) at the Department, was responsible for setting the assessments on the Domtar properties for the years 2010 and 2011.

26. At trial, the Department presented an assessment analysis of the 14 parcels originally under appeal. The purpose of the report was to explain the valuations of the Domtar manufacturing properties for the years 2008, 2009, and 2010. The report, prepared by Richard R. Arnold, was broken down by individual parcel and included each of the 8 parcels which are the subject matter of these cases. The hydroelectric power plant building square footage was assessed and appraised in conjunction with the mill site (parcel No. 27-0081).

27. The Department's report concluded that the highest and best use of the subject properties was commercial/industrial/manufacturing/continued use.

28. The Department's witnesses testified and the evidence showed that the 2009, 2010, and 2011 assessments on the 8 parcels at issue in this case were made in accordance with the *Wisconsin Property Assessment Manual* (the "Assessment Manual") and Wis. Stat. § 70.32(1).

29. The 2009, 2010, and 2011 assessments of the 8 subject properties followed the "Markarian hierarchy," which requires assessors to first use a recent sale of the subject property to determine value and, if no recent sale is available, then to use recent sales of other comparable properties to determine value.



30. The 2009, 2010, and 2011 assessments of the 8 subject properties utilized the sales comparison method since there were recent sales of comparable properties available to value the subject properties.

31. The individual land valuations of the 8 subject properties are supported by individual land analyses, while the individual improvement values are supported by comparable sales, adjusted by individual Sales and Reconciliation Reports from 2009. The Sales Reconciliation Reports display the sales, cost, and income approaches to valuation and reconcile them.

32. The comparable sales used in the 2009, 2010, and 2011 assessments of the 6 parcels with improvements were adjusted by the assessors and reviewed by their supervisors. All of the sales occurred in Wisconsin and were verified by the Department.

33. Representatives of the Department made 2 site visits to the Port Edwards Mill. The first visit was made on January 29, 2009, by Michael Maternowski, Curt Stepanek, and Scott Kmetz of the Department, in relation to the 2009 assessment. The second visit was made by Richard Arnold on August 28, 2012, to review the 2009, 2010, and 2011 assessments.

34. Historically, the highest and best use of the parcels under appeal was manufacturing/commercial/industrial/continued use as a pulp and papermaking plant.

35. After the site visit in 2012, Mr. Arnold did not change the highest and best use determination. He reasoned that the property was operational ready and

could be used as a pulp and papermaking plant, but to maximize profitability it might also be sold as individual parcels for some manufacturing/commercial/industrial use. Consequently, the Department did not change its determination of highest and best use for the 2009, 2010, and 2011 assessments of the 8 properties.

36. The appraisal prepared by American Appraisal for Domtar for evaluating the tax assessments for the years 2009, 2010, and 2012, was dated April 30, 2012, and was thus a retrospective appraisal.

37. Domtar's appraisal did not appraise each individual parcel at issue in these cases, but rather allocated the cumulative valuation by tax parcel, with no analysis of the allocation.

38. Domtar's appraisal concluded that the highest and best use of the Port Edwards Mill was for redevelopment.

39. Domtar's appraisal utilized the sales comparison method but failed to make adjustments for such attributes as age, size, conditions, and location, as were done by the Department's assessor through the Sales Analysis and Reconciliation Report. It did not include the hydroelectric facility, even though Domtar had reported the hydroelectric facility as part of the Port Edwards Mill parcel in its Manufacturing Reports.

#### CONCLUSIONS OF LAW

1. The presumption of correctness of the 2009, 2010, and 2011 assessments on the 8 parcels under appeal has not been rebutted.

2. There is credible evidence to support the assessments.

3. The assessments correctly used the sales comparison method to evaluate the parcels under appeal.

4. There is evidence to support the assessor's conclusion in 2009 that the highest and best use of each parcel was manufacturing/commercial/industrial/continued use. That same evidence supports the assessments for 2010 and 2011.

5. Domtar failed to provide sufficient evidence to overcome the presumption of correctness for the assessments on the 8 parcels for 2009, 2010, and 2011.

### OPINION

These cases involve appeals from assessments of 8 individual parcels of manufacturing property in Port Edwards, Wisconsin, owned by Domtar. Domtar has appealed these assessments for the years 2009, 2010, and 2011. These parcels were part of the Port Edwards Mill papermaking facility which Domtar closed in 2008.

Domtar challenged the assessments on the ground that the highest and best use of the parcels had changed once the Port Edwards Mill closed. At trial, Domtar offered evidence of the circumstances concerning the closure of the mill and evidence of the downward trend in the paper industry in Wisconsin. It also offered a retrospective appraisal of the Port Edwards Mill. This appraisal valued the 8 parcels under appeal cumulatively as a single economic entity. The appraisal concluded that the highest and best use of this economic entity was as property available for redevelopment, rather than as an operating pulp and paper mill.

From Domtar's perspective, the sole issue at trial was whether the highest and best use of the Port Edwards Mill site had changed to redevelopment. Historically,

the 8 parcels were assessed individually and carried differing highest and best use designations depending upon the parcel. The 6 improved parcels carried the following highest and best use designations in the Department's assessments:

Parcel Description	Highest & Best Use
Mill Site	Mfg./Industrial/Continued Use
Admin. Bldg.	Commercial Office/Continued Use
Computer Ctr.	Commercial Office/Continued Use
Island Yard Dam Bldg.	Mfg./Industrial/Continued Use
Nepco Lake Power Bldg.	Mfg./Industrial/Continued Use
Warehouse Bldg.	Commercial/Industrial/Continued Use

The other 2 parcels were vacant land and carried the highest and best use designation of commercial/manufacturing/industrial/continued use.

It is important to note that these are 24 separate cases challenging assessments on 8 separate tax parcels for 3 different years. The Commission has been asked to review whether these assessments were correct. The law presumes that the Department's assessments are correct, and it is the taxpayer's burden to show that the assessments are incorrect. *Hormel Foods Corp. v Dep't of Revenue*, Wis. Tax Rptr. (CCH) ¶ 400-741 (WTAC 2004), *aff'd*, Case No. 04-CV-1278 (Dane Co. Cir. Ct. 2004). If there is credible evidence that may in any reasonable view support the assessor's valuation, that valuation must be upheld. *Universal Foods Corp. v. Dep't of Revenue*, Wis. Tax Rptr. (CCH) ¶ 400-316 (WTAC 1997).

The Department must assess manufacturing property in compliance with the *Assessment Manual*, absent conflicting law. *Nestle USA Inc. v. Dept. of Revenue*, 2011 WI 426, 331 Wis. 2d 256, 795 N.W.2d 46. Wisconsin Statute § 70.32(1) requires an assessor to value real property at the “full value” which could ordinarily be obtained at a private sale. *Steenberg v. Town of Oakfield*, 167 Wis. 2d 566, 572, 482 N.W.2d 326 (1992). The Wisconsin Supreme Court has, for purposes of real property assessment, construed the statutory phrase “full market value” to mean fair market value, which is the amount the property will sell for upon arm’s length negotiation in the open market, between an owner willing but not obligated to sell and a buyer willing but not obligated to buy. *Waste Management of Wisconsin v. Kenosha County Board of Review*, 184 Wis. 2d 541, 556, 516 N.W.2d 695 (1994); *Metropolitan Holding Company v. Board of Review of the City of Milwaukee*, 173 Wis. 2d 626, 631, 495 N.W.2d 314 (1993).

Case law interpreting this statute has consistently held that the statute sets forth a tri-level hierarchy. The statute essentially codified what is commonly referred to as the “Markarian hierarchy,” established in *State ex rel. Markarian v. City of Cudahy*, 45 Wis. 2d 683, 173 N.W.2d 627 (1970). *See also Waste Management*, 184 Wis. 2d at 556-557. Under this hierarchy, the assessor must first use a recent sale of the subject property to assess value. *Markarian*, 45 Wis. 2d at 686. If there has been no recent sale of the subject property, the assessor then must use recent sales of comparable properties. The assessor proceeds to the third level of other appraisal approaches only if the first 2 are not available. *Id.* at 686; *State ex rel. Campbell v. Township of Delavan*, 210 Wis. 2d 239, 256-59, 565 N.W.2d 209 (Ct. App. 1997).

The Markarian hierarchy does not mandate that the comparable sales approach is the only appraisal approach that can be used to value property. It simply requires that an assessor must consider the comparable sales approach, by determining if there are any recent sales of property that are reasonably comparable to the subject property, before other methods of appraisal may be employed. *Campbell*, 210 Wis. 2d at 256-59.

When employing the comparable sales method, the first step in the analysis is to determine the highest and best use of the property in question. In determining highest and best use for a property, the use must be legally permissible, physically possible, financially feasible, and at its maximum profitability. *Assessment Manual*, Vol. I, pp. 7-9 to 7-10 (2005).

In these cases, we must determine, first of all, if the assessments were made in accordance with the applicable statutes and the *Assessment Manual*. If they were, then we must determine whether competent evidence exists which shows that the assessor's valuation is incorrect.

We find that the assessments for the years 2009, 2010, and 2011 were made in accordance with the applicable statutes and the *Assessment Manual*. The assessors used the Markarian hierarchy in valuing the 8 parcels under appeal. Since there were no recent sales of the subject parcels, the assessors used the comparable sales method in making the assessments. The testimony at trial by Mr. Maternowski, Mr. Kmetz, Mr. Arnold, and Ms. Coulson, explained that there were recent sales of comparable properties available at the time of the 2009 assessment. The assessors properly chose

the various comparables, adjusted them, and weighted them to come up with the assessments. Each parcel was assessed individually in accordance with the *Assessment Manual*.

With respect to highest and best use, an analysis was made for each of the parcels. The Department made a site visit in 2009 and again in 2012 after Domtar had closed the Port Edwards Mill. The assessors concluded that the highest and best use of the properties was continued use as a paper mill. Certain individual parcels also were designated to have a highest and best use as commercial. The assessors noted from their site visits that the chip plant and electricity generator plants were running and that a Domtar representative had commented, "You could tour this thing and start the machinery up again."

But the most important evidence supporting the Department's highest and best use determinations was the existence of recent sales of comparable properties. All of these sales occurred in Wisconsin, were subject to a Sales and Reconciliation report, and were used by the assessors as comparable sales. Thus, a market existed in Wisconsin for paper mills, although it was smaller than in years past. To adjust for this declining market, the Department of Revenue made a downward adjustment as part of its valuation. All of this is credible evidence which supports the correctness of the assessments.

The question then becomes: what evidence did Domtar present to overcome the presumption of correctness of the Department's assessments? As the Commission pointed out in *Lindberg Division of Sola Basic v. Dep't of Revenue*, Wis. Tax

Rptr. (CCH) ¶ 400-177 (WTAC 1995), it is an error to disregard competent, uncontroverted evidence used to contradict an assessment.

Domtar rests its entire argument on the proposition that highest and best use of the Port Edwards Mill changed to redevelopment after it was closed in 2008. In support of its argument, Domtar called as witnesses Stuart Marcoux and Brian Lewis, who testified that the Port Edwards Mill was outdated and that the paper industry had declined since the 1990s. Domtar also presented a retrospective appraisal by Anthony Wells of American Appraisal. The appraisal was dated April 30, 2012, and covered the years 2009, 2010, and 2011.

There were several problems with the appraisal which led the Commission to conclude that it was not the uncontroverted, credible evidence needed to overcome the presumption of correctness of the assessments. First, it was a retrospective appraisal done in 2012. This allowed Domtar to control which parcels to include and which to exclude in the appraisal. Most importantly, the appraisal excluded the hydroelectric facility which had historically been assessed as part of the Port Edwards Mill parcel. Second, the appraisal included the 8 parcels under appeal valued as a single economic unit. The problem with this approach is that these appeals ask us to review the correctness of 8 assessments of individual parcels. Combining the parcels into one economic unit provides no evidence of what the value of each individual parcel may be.

The statutes and the *Assessment Manual* require that each appraisal parcel be assessed individually and given a land and improvement value. The Domtar



appraisal did not do that. Instead, it presented one aggregated value which placed its main emphasis on the Port Edwards Mill itself and did not include the hydroelectric facility. Historically, the Department had included the hydroelectric facility as part of the Port Edwards Mill assessment and was justified in doing so under Wis. Stat. § 70.995(4). In fact, Domtar itself had previously reported the hydroelectric facility as part of the Port Edwards Mill in its Manufacturing Reports for the Port Edwards Mill parcel (Parcel No. 27-00081).<sup>1</sup> Before issuing his appraisal in 2012, Mr. Wells had gone back and forth about what parcels to include in the appraisal and whether to include the hydroelectric facility, depending upon instructions from Domtar's attorneys. It is difficult to give credibility to an appraisal which was made 3 years after the assessments were issued, which did not appraise the included parcels individually, which did not include all of the same parcels that were the subject of the Department's assessment, and which was plainly manipulated by Domtar.

Domtar's appraisal also contains no credible highest and best use analysis of the individual parcels. Domtar closed the Port Edwards Mill in 2008 and had no intention of either reopening it as a mill or marketing it to a competitor as a papermaking facility. This was a business decision, made in the context of Domtar's other businesses and properties, many of which are not part of this case. In 2012, Domtar and its attorneys hired Mr. Wells to do an appraisal. Instead of looking at each

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<sup>1</sup> The hydroelectric plant was actually located on an adjacent parcel but has historically been included and taxed in conjunction with the Port Edwards Mill parcel (81-71-171-R000450). Originally, Domtar brought appeals for the adjacent property as well but withdrew its appeal, accepting the low tax assessment which excluded the hydroelectric plant. If its argument held in the instant case, the taxpayer would avoid tax on the hydroelectric plant entirely through lawyerly manipulation of parcels on appeal.

parcel, assigning it a highest and best use, and using the Markarian hierarchy to assign a value to each parcel, Mr. Wells appraised the parcels as one unit and concluded that the highest and best use of the unit was redevelopment.

The evidence at trial did not show any attempt to market the property as a mill. In fact, the evidence showed every intention not to do so. The property was not advertised as a mill for sale, much useful property was removed, some of the remaining property was rendered unusable for production equipment of a mill, and Domtar made it clear that the hydroelectric plant would not be available to service a mill on the Port Edwards Mill site. Because Domtar made sure that the closed Port Edwards Mill site would not be marketed as a mill, there is no evidence that Domtar could not have successfully sold it as a mill or that a purchaser could not have operated it successfully as a mill.

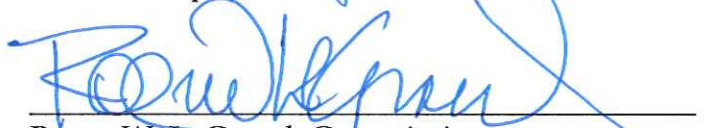
In summary, the Commission finds that Domtar did not overcome the presumption of correctness of the Department's assessments of the 8 parcels for the years 2009, 2010, and 2011. The Department's assessments for the years 2009, 2010, and 2011 are affirmed.

Dated at Madison, Wisconsin, this 29<sup>th</sup> day of December, 2014.

**WISCONSIN TAX APPEALS COMMISSION**



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Lorna Hemp Boll, Chair



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Roger W. LeGrand, Commissioner



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David D. Wilmoth, Commissioner

**ATTACHMENT: NOTICE OF APPEAL INFORMATION**

WISCONSIN TAX APPEALS COMMISSION  
5005 University Avenue - Suite 110  
Madison, Wisconsin - 53705

**NOTICE OF APPEAL INFORMATION**

**NOTICE OF RIGHTS FOR REHEARING OR JUDICIAL REVIEW, THE TIMES ALLOWED  
FOR EACH, AND THE IDENTIFICATION OF THE PARTY TO BE NAMED AS  
RESPONDENT**

A taxpayer has two options after receiving a Commission final decision:

***Option 1: PETITION FOR REHEARING BEFORE THE COMMISSION***

The taxpayer has a right to petition for a rehearing of a final decision within 20 days of the service of this decision, as provided in Wis. Stat. § 227.49. The 20-day period commences the day after personal service on the taxpayer or on the date the Commission issued its original decision to the taxpayer. The petition for rehearing should be filed with the Tax Appeals Commission and served upon the other party (which usually is the Department of Revenue). The Petition for Rehearing can be served either in-person, by USPS, or by courier; however, the filing must arrive at the Commission within the 20-day timeframe of the order to be accepted. Alternatively, the taxpayer can appeal this decision directly to circuit court through the filing of a petition for judicial review. It is not necessary to petition for a rehearing first.

**AND/OR**

***Option 2: PETITION FOR JUDICIAL REVIEW***

Wis. Stat. § 227.53 provides for judicial review of a final decision. Several points about starting a case:

- 1. The petition must be filed in the appropriate county circuit court and served upon the Tax Appeals Commission either in-person, by certified mail, or by courier, and served upon the other party (which usually is the Department of Revenue) within 30 days of this decision if there has been no petition for rehearing, or within 30 days of service of the order that decides a timely petition for rehearing.**
- 2. If a party files a late petition for rehearing, the 30-day period for judicial review starts on the date the Commission issued its original decision to the taxpayer.**
- 3. The 30-day period starts the day after personal service or the day we mail the decision.**
- 4. The petition for judicial review should name the other party (which is usually the Department of Revenue) as the Respondent, but not the Commission, which is not a party.**

For more information about the other requirements for commencing an appeal to the circuit court, you may wish to contact the clerk of the appropriate circuit court or the Wisconsin Statutes. The website for the courts is <http://wicourts.gov>.

This notice is part of the decision and incorporated therein.