

STATE OF WISCONSIN
TAX APPEALS COMMISSION

REIGEL REAL ESTATE LLC,

DOCKET NO. 09-M-047

Petitioner,

vs.

DECISION AND ORDER

WISCONSIN DEPARTMENT OF REVENUE,

Respondent.

THOMAS J. MCADAMS, COMMISSIONER:

This case comes before the Commission after a trial held before the Commission in Madison, Wisconsin on October 22, 2009. The Petitioner, Reigel Real Estate LLC ("Reigel"), is represented by its owner, Mr. Lyle Reigel, and has filed a post-trial brief. The Respondent, the Wisconsin Department of Revenue ("The Department"), appears by Attorney John R. Evans, of Madison, Wisconsin, and has also filed a post-trial brief. The issue in this case is the Department's 2008 manufacturing property assessment of Reigel's paper processing plant in Grand Chute, Wisconsin. The Department assessed the property for 2008 at \$6,709,800 and the Petitioner challenges that number, claiming that the property was actually worth \$5,842,100.

Based on the evidence received at trial, the Commission finds, concludes, and orders as follows:

FINDINGS OF FACTS

A. Jurisdictional Facts

1. The Department issued the 2008 manufacturing property assessment to Reigel Real Estate LLC and U.S. Paper Converters, Inc. on June 23, 2008. The land was assessed at \$534,600 and the improvements at \$6,175,200 for a total of \$6,709,800. Exhibit 1, p. A-1.

2. Mr. Reigel filed a Form of Objection with the State Board of Assessors (“the Board”) on July 23, 2008. Mr. Reigel listed his estimate of the value of the land at \$356,000 and the value of the improvements at \$5,486,100, for a total of \$5,842,100. Exhibit 1, at A-2.

3. The Board issued its notice of determination on January 5, 2009. The Board’s full value assessment is \$534,600 for the land and \$6,175,200 for the improvements, for a total of \$6,709,800. Exhibit 1.

4. Mr. Reigel filed a timely petition for review of the Board’s determination to the Tax Appeals Commission on March 5, 2009. Commission File.

B. Material Facts

1. The Petitioner’s manufacturing property is located at 4808 W. Converters Drive, in Grand Chute, Wisconsin. It is located near the intersection of U.S. Highway 41 and U.S. Highway 15 in an industrial park. Trial Testimony of Assessor Kristen Kruzicki.

2. U.S. Paper Converters, Inc. and Reigel Real Estate, LLC are both operated by Mr. Lyle Reigel. Exhibit 1, p. A-1.

3. The property is 17.82 acres and contains a 351,660 square foot main building. The parcel itself is triangular and the main building has 4 railroad docks. Part of the finished area had been rented, but at the time of the assessment was vacant. Board of Assessors Report, Exhibit 1 at 9.

4. The Board's Assessor, Ms. Kristin Kruzicki, valued the property at \$6,797,700 using the sales comparison approach. She valued the land at \$534,000 or \$30,000 per acre. She assessed the improvements at \$6,263,100, or \$17.81 per square foot. The original assessment was \$6,709,800, which is \$87,900 less than the value estimate Ms. Kruzicki derived from the sales comparison approach. Exhibit 1 at p. 6.

5. There has been no recent sale of the Petitioner's property. Trial Testimony of Ms. Kruzicki.

6. The Board's assessor used four recent sales of other comparable properties to value the property's improvements. The four sales had an adjusted unit value of \$14.17 per square foot to \$23.65 per square foot. The assessor gave the most weight to the sales that had the least amount of adjustment. The sales used were located on Glory Road in Ashwaubenon (sold in January of 2006), on Century Road in Green Bay (sold in June of 2005), on Femrite Road in Madison (sold in August of 2006), and on Venture Avenue in DePere (sold in April of 2006). Three out of the four properties had the same construction type, that being pre-engineered steel with metal skin. Exhibit 1 at A-8, A-10, A-12, A-14 and A-16. Trial Testimony of Ms. Kruzicki and Exhibit 1 at 9.

7. The main building on the property is 24 feet tall. The DePere buildings are 30 feet tall, the Ashwaubenon building is 27 feet tall, the Green Bay building is 22 feet tall, and the Madison building is 26 feet tall. The assessor adjusted the comparables for height. Exhibit 1 at A-8.

8. Two recent sales made by the Petitioner were used to value the land. Those sales involved nearby parcels in the same industrial park and the parcels of land were approximately 31 and 13 acres each. Mr. Reigel sold the 31 acre parcel in November, 2005 and Mr. Reigel sold the 13 acre parcel in May, 2006. The 31 acre parcel Mr. Reigel sold for \$20,299 per acre and Mr. Reigel sold the 13 acre parcel for \$100,000 per acre. Exhibit 1 at 8.

9. Mr. Reigel introduced into evidence an appraisal on his paper processing plant in Fitzgerald, Georgia from 2009. The appraiser valued the plant in Georgia at a total of \$2,700,000 for the land and building. The Georgia plant has a 211,200 square foot industrial building, which was built in 1995. The building is situated on 17.34 acres. The Georgia plant has more docks than the Grand Chute plant. The appraiser reconciled a value that is between the cost approach value of \$2,780,000 and a sales comparison approach value of \$2,600,000. Petitioner's Exhibit 1 at 2.

10. Mr. Reigel testified that he built the building on the property in question 11 years ago and his cost was \$4.5 million dollars. The land cost was \$6,700 an acre. Trial Testimony of Mr. Lyle Reigel.

APPLICABLE WISCONSIN STATUTES

70.32 Real estate, how valued.

(1) Real property shall be valued by the assessor in the manner specified in the Wisconsin property assessment manual provided under s. 73.03(2a) from actual view or from the best information that the assessor can practicably obtain, at the full value which could ordinarily be obtained therefor at private sale. In determining the value, the assessor shall consider recent arm's-length sales of the property to be assessed if according to professionally acceptable appraisal practices those sales conform to recent arm's length sales of reasonably comparable property; recent arm's-length sales of reasonably comparable property; and all factors that, according to professionally acceptable appraisal practices, affect the value of the property to be assessed.

DECISION

In this case, the Department assessed the Petitioner's paper processing plant¹ at \$6,709,800 for 2008. For the previous year, the plant had been assessed at \$6,020,700. The Petitioner filed a challenge before the Board, which the Board denied on January 5, 2009. The Petitioner then commenced a timely appeal before the Commission. After a series of pre-trial conferences, Commissioner McAdams visited the plant in Grand Chute and conducted a walkthrough of the plant on October 20, 2009. A trial was held in Madison, Wisconsin on October 22, 2009.

At the trial, Mr. Reigel testified for the Petitioner in its case-in-chief and introduced exhibits. The Petitioner called no other witnesses and did not offer an appraisal of the property at issue. The Respondent then put on a case, calling Assessor

¹ At the plant, large rolls of paper are cut into smaller rolls. The brochure for U.S. Paper Converters, Inc. that was received at trial states that the Grand Chute facility operates six rewinders capable of converting rolls up to 136" wide.

Kristin Kruzicki as its only witness. At the conclusion of the hearing, the parties set a schedule for post-trial briefs. In its post-trial brief, the Petitioner challenges the assessment for two main reasons. First, the property Reigel owns in Fitzgerald, Georgia has a lower assessment. Second, the Petitioner also attacks the methods the Department used in setting the assessment. The first part of this opinion will summarize the law. The second part of this opinion will set forth the evidence. The third part will summarize the legal arguments made by the parties. The final part of this opinion will explain why we find in favor of the Department.

I. Applicable Law

A. Procedure

Wis. Stat. § 70.995 provides that manufacturing property assessments are set annually by the Department. At least once every five years, the Department conducts a field investigation or on-site appraisal under Wis. Stat. § 70.32.

If the taxpayer wishes to challenge the Department's assessment, he or she must file a challenge first with the Board of Assessors. The Board is an investigatory arm of the Department and conducts its own review without a hearing. Under Wis. Stat. § 70.995(8)(c)2, the taxpayer-manufacturer may submit supplemental information to support the objection. Except in limited circumstances, the Board may not increase the taxpayer's assessment. The Board, like the Commission, can "reassess" only within the monetary boundaries postulated by the litigants and the assessments in the cases before it. *Prime Leather Finishes v. Dep't of Revenue*, Wis. Tax Rptr. (CCH) ¶203-235

(WTAC 1991).² The Board meets monthly and sends the result of its review to the taxpayer. Review by the Board is a necessary first step to further review by the Commission and the courts. *Pierce Milwaukee v. Dep't of Revenue*, Wis. Tax Rptr. (CCH) ¶401-271 (WTAC 2009). Because it is the value determined by the Department's State Board of Assessors from which a taxpayer appeals, it is this value which carries the presumption of correctness in Commission proceedings. *Universal Foods Corp. v. Dep't of Revenue*, Wis. Tax Rptr. (CCH) ¶400-316 (WTAC 1997).

If the taxpayer wishes further review past the Board, the taxpayer may file a petition for review with this Commission within 60 days of receipt of the result of the Board's review. In manufacturing assessment cases, this Commission functions as a quasi-judicial board of review because we are responsible for determining questions of both law and fact³ in connection with our appellate jurisdiction under §§73.01(4) and (5), Stats. *Id.* Although the Commission has the narrow function of deciding tax cases brought to it, the Commission's range of jurisdiction within those cases is very broad. *Super Products Corp. v. Dep't of Revenue*, Wis. Tax Rptr. (CCH) ¶203-318 (WTAC 1991). The circuit court has stated that the Tax Appeals Commission regularly deals with assessment disputes and through such regular exposure, the Commission has developed a particular competence and expertise in such matters. *Prime Leather Finishes*

² We note for the reader's convenience that this opinion will cite to five separate opinions involving Prime Leather Finishes. These five opinions concern 4 separate tax controversies.

³ For example, in *Prime Leather Finishes Company, Arthur W. Welch Trust and Arthur W. Welch Trust II v. Dep't of Revenue*, Wis. Tax Rptr. (CCH) ¶202-676 (WTAC 1985), the Commission stated that none of the appraisals reflected adequate consideration of all of the factors and proceeded to fashion its own valuation based on the best evidence within the range of values placed in evidence.

Co. v. Dep't of Revenue, Wis. Tax Rptr. (CCH) ¶201-913 (Waukesha Co. Cir. Ct., October 21, 1981). The Commission's statutory jurisdiction extends to determining "all questions of law and fact" arising in those cases. *Id.* Although the Board's assessment is presumed correct, the Petitioner is entitled under the civil rules to a hearing where each side may present witnesses. Based on the evidence introduced at the hearing, the Commission makes findings of fact and issues a ruling.

The Commission's decision is subject to review in the circuit court under Ch. 227.

B. Burden of Proof

The Department's assessment is presumed to be correct, and it is the taxpayer's burden to demonstrate that the assessment is incorrect. *See Hormel Foods Corp. v. Dep't of Revenue*, Wis. Tax Rptr. (CCH) ¶400-741 at 32,962 (WTAC 2004). The presumption of correctness accorded the assessor's valuation has been well-established in case law for almost 100 years. *See State ex rel. Miller v. Thompson*, 151 Wis. 184, 138 N.W.2d 628 (1912). If there is credible evidence that may in any reasonable view support the assessor's valuation, that valuation must be upheld.⁴ *Universal Foods Corp. v. Dep't of Revenue*, Wis. Tax Rptr. (CCH) ¶400-316 at 31,111 (WTAC 1997).

II. The Petitioner's Case

The Petitioner challenges the Department's assessment on several bases. First, the Petitioner argues that the testimony presented confirms that the assessor and

⁴ It is error, however, to disregard uncontradicted competent evidence which shows the assessor's valuation is incorrect. *Id.* at 31,111-112.

the Board did not consider two approaches to the valuation of the manufacturing property that would indicate substantially lower values, namely the income approach and the cost of replacement approach. The Petitioner points out that part of the property is unrented and that the cost of the land and building has not increased significantly since the property was built in 1996 at a cost of \$4.6 million.

The second challenge to the assessment made by the Petitioner involves the Department's use of sales from 2005 and 2006 as comparables for a 2008 assessment. The Petitioner objects to the lack of consideration given for the market downturn which Petitioner states has occurred since 2007.⁵ In particular, the Petitioner states that an increase in the assessed value by over \$700,000 cannot be justified by market conditions for commercial property.⁶

Third, the Petitioner states that the appraiser failed to take adequate consideration of the fact that the property was located on a dead-end road with minimal frontage and on an odd-shaped lot.

⁵ In support of this claim, the Petitioner has submitted a one page newsletter article from 2009 indicating a 1.3% drop statewide in the value of manufacturing properties during 2008 and an email Mr. Reigel received from a commercial real estate broker indicating that *some* industrial properties are declining in value. Those items support Reigel's position that there has been a generalized downturn in the market for manufacturing property. Unfortunately, the Petitioner does not tie this information specifically to **this** manufacturing property, and it is not the sort of information of which we may take judicial notice. See, e.g., *G.R. Kinney Co.* (CCH ¶200-065, April 4, 1945).

⁶ Wis. Stat. § 70.32(1) explicitly calls for "*recent* arm's length sales of reasonably comparable property...." and the Court of Appeals, in *State ex rel. Wisconsin Edison Corporation v. Robertson*, 99 Wis. 2d 561, 567, 299 N.W.2d 626 (1980), said: "The sale of the property must be *recent*.... We cannot conclude that the sale ... in October of 1974, would be 'recent' on January 1, 1978. The Supreme Court held that a one-year difference between the assessment date and the sale of a comparable property did not render testimony concerning sales and comparable property incompetent.... *A three year old sale is another matter*...." In this case, the oldest sale used in either the land or the improvement calculations was less than 3 years old at the date of the assessment.

Finally, the Petitioner contends that the appraisal for \$2.7 million Mr. Reigel submitted with regard to his property in Georgia is more on point. Although the Petitioner concedes the property is outside Wisconsin, the property has similar construction and use and the appraisal is based on more recent factors.

III. The Department's Case

The Department argues that the assessment is presumed to be correct and that credible evidence supports the assessor's valuation. The Department points out that the sales used were not too old and the assessor properly considered lot shape in her assessment. According to the Department, the differences in visibility and frontage between the comparable sales and the subject property are not significant enough to disqualify them. Also, the adjacent parcel sale should not be rejected because of its involvement in a litigation settlement.⁷ The assessor properly adjusted the comparable properties for having different building heights than the subject property. The comparable properties are comparable to the subject property in construction quality. In sum, the sales used are credible evidence for the assessment and, therefore, the assessment should be upheld.

⁷ After the October 22 hearing, the Petitioner supplemented the record with documents relating to the resolution of a lawsuit involving its property which was next to the property that is in question here. The settlement documents verify that the 13 acre parcel was sold after a protracted arbitration process for \$100,000 per acre. As the Department points out, part of the settlement is allocated to the land and part to other claims. The Petitioner does not undertake to explain why it is inappropriate to consider that sale here as one factor. Nevertheless, the assessor testified she gave greater weight to the \$20,299 per acre parcel the Petitioner also sold.

The Department also argues that even if Reigel rebuts the presumption of correctness, it still has failed to support its alternative valuation, because the Georgia appraisal should not be used to value the property and it does not support Reigel's valuation of the property. The Department rejects the Petitioner's cost and appreciation estimates.

IV. Ruling

Wisconsin law presumes that the assessment in this case is correct. The Petitioner asked for a walkthrough and a hearing, but failed to introduce testimony from an expert to support his contentions, choosing instead merely to challenge what the Department offered.⁸ Thus, in a nutshell, we decide the case based on the substantive testimony the Department offered versus the cross examination questions from the Petitioner and Mr. Reigel's testimony. In our view, after reviewing the evidence, we believe the Department has adequately supported the reasons for its assessment and the Petitioner has failed to substantiate its preferred valuation. While cross examination is a recognized "legal engine for the discovery of truth,"⁹ our take on the hearing is that while the Petitioner raised several issues concerning the assessment, the state adequately responded to Petitioner's concerns and demonstrated that its

⁸ Concern over the lack of an appraisal from the Petitioner led the Commission to call a pretrial conference to discuss the issue. During the conference, the Commission expressed to the Petitioner the disadvantages of proceeding without its own appraisal. In response to the Commission's concerns, the Petitioner's representative stated that obtaining such an appraisal "would cost [him] a lot of money." The Commission is not an assessor, and can only raise, lower or sustain an assessment based upon the facts in evidence. *Prime Leather Finishes v. Dep't of Revenue*, Wis. Tax Rptr. (CCH) ¶201-704 (WTAC 1980).

⁹ The Wisconsin Supreme Court has cited Wigmore for this proposition on a number of occasions. See, e.g., *Town of Geneva v. Tills*, 129 Wis. 2d 167, 384 N.W.2d 701 (1986).

assessment deserves the presumption.¹⁰ We will respond to each of the Petitioner's contentions from its post-hearing brief in turn. First, we will explain why the appraisal method used by the Department is correct. Second, we will address the Petitioner's attacks on the Department's comparable sales.¹¹ Finally, the Petitioner asks us to find the Georgia appraisal persuasive. For the reasons that follow, we reject each argument.¹²

The Petitioner's first argument in its brief is that no consideration was given to a cost approach.¹³ The Petitioner asks that we consider the cost approach here, but based on well-established law, such consideration would have been inappropriate. Wis. Stat. § 70.32(1) governs the valuation of real property for the purposes of taxation and requires an assessor to value real property at the "full value" which could

¹⁰ On a number of occasions, the Commission has cited the lack of affirmative proof as its reason for finding against a Petitioner. See *Algoma Hardwoods v. Dep't of Revenue*, Wis. Tax Rptr. (CCH)¶201-944 (WTAC 1981) (petitioner presented no evidence on allocation between subject property and real property); *James Engel v. Dep't of Revenue*, Wis. Tax Rptr. (CCH)¶401-104 (WTAC 2008) (lack of proof alone requires a holding for the Department concerning what constitutes manufacturing).

¹¹ At the hearing, the Petitioner questioned the assessor about the different sizes of the buildings used as comparables. Generally speaking, as square footage sold increases, the unit price or price per square foot decreases, reflecting a more limited market for such facility. This phenomenon is known in the appraisal trade as "cheaper by the dozen." *Prime Leather Finishes Company, Arthur W. Welch Trust and Arthur W. Welch Trust II v. Dep't of Revenue*, Wis. Tax Rptr. (CCH)¶202-676 (WTAC 1985). The Petitioner here, however, does not pursue this claim in their post-trial brief.

¹² The Petitioner attaches to their post-trial brief a copy of *Hormel Foods Corp. v. Dep't of Revenue*, Wis. Tax Rptr. (CCH)¶400-741 (WTAC 2004). We assume in the absence of an explanation that the significance to this case is that the Commission in *Hormel* found that the presumption of correctness was rebutted because it was based on three comparable sales that the Commission found inappropriate. We would point out, however, that the Petitioner in *Hormel* had an appraiser to support its position.

¹³ The Petitioner arrives at its estimated value of \$5,842,100 by taking its original cost of approximately \$4,600,000 and adding a separate increase of 3% for each year it has owned the property. As the Department points out, however, the Petitioner's method does not account for compounding and \$4,600,000 compounded annually at 3% for 11 years is \$6,370,000. Respondent's Brief at 10. The Department's indicated value using the cost approach is \$8,539,900. Exhibit 1, p. 5.

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 construed, for purposes of real property assessment, 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. That is, the assessor must use a recent sale of the property first to assess value. *Markarian*, 45 Wis. 2d at 686. If there was not a recent sale, the assessor then must use recent comparable sales,¹⁴ and the assessor proceeds to the third level or other appraisal approaches only if the first two are not available. *See 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).

¹⁴ 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, in balance with other properties around it, and financially feasible. *Property Assessment Manual for Wisconsin Assessors*, Vol. I, pp. 7-9 to 7-10 (2005).

It is erroneous to assess property using the third level “when the market value is established by a fair sale of the property in question or like property.” *Markarian*, 45 Wis. 2d at 686. Here, the record reflects that the first level was not available because there was no recent sale of the property. The issue, therefore, became whether recent reasonably comparable sales were available for valuing the Grand Chute facility. Based on the information in its database, we believe the Department properly valued the property based on a second level analysis, and thus never addressed the cost approach. The Commission has stated that valuation is nothing more than expert opinion based on recognized and well-established methodology. *Prime Leather Finishes Company v. Dep’t. of Revenue*, Wis. Tax Rptr. (CCH) ¶400-096 (WTAC 1994).

The second challenge concerns the actual comparables used. In this case, the Department valued the Petitioner’s improvements by using four comparables. The assessor testified that the comparable sales were in DePere, Green Bay, Ashwaubenon, and Madison. The assessor testified that she picked the comparables from the database because of their location and their similarity. The Petitioner, by way of cross examination of the assessor, raised two challenges to the comparables. First, Mr. Reigel questioned whether the construction was the same. Second, Mr. Reigel challenged the height of the other buildings.

Wis. Stat. § 70.32(1) requires that the sales included in a comparable property sales analysis be sales of “*reasonably* comparable property.” (emphasis added.) Comparable properties should be properties that represent the subject property in age,

condition, use, type of construction, location, number of stories, physical features and economic characteristics. *Property Assessment Manual for Wisconsin Assessors*, Vol. I, p. 7-18 (2005).

In this case, the assessor's testimony in response to Mr. Reigel's questions about construction and height was that the general type of construction was similar enough to make comparison possible. And as to height, the assessor testified that a numerical adjustment was made in the price per square foot for differences in height. In fact, the exact testimony from the assessor was that the height of comparables is *never* exactly the same. The heights here — 30 feet, 27 feet, 22 feet, and 26 feet---seem relatively close to the height of the Petitioner's facility. All that the statute requires is that the comparables be *reasonably* similar. There is nothing in this record which establishes that a difference of a few feet makes comparison inapt. A discrepancy in the number of stories would be a different matter, but that is not what is in question here. This Commission has stated that the similarity between manufacturing facilities cannot reasonably be expected to be of the same degree as might be found in residences, apartment buildings, or even commercial buildings. *Prime Leather Finishes Company, Arthur W. Welch Trust and Arthur W. Welch Trust II* at ¶202-676. Similar utility of a structure may be somewhat more important, and similar physical appearance somewhat less important than in those categories. *Id.* The sales used as evidence of

value in this case had enough similarity in size, structure and general location to be helpful in determining the fair market value.¹⁵

The Petitioner's third challenge concerns the appraisal of Mr. Reigel's plant in Georgia. The 89-page appraisal which was received into evidence at the trial sets the value of the plant there at \$2,700,000. From this value, the Petitioner asks us to extrapolate that the Department's assessment in this case is incorrect. This we decline to do for several reasons. First, the comparables used by the Department are much closer to the relevant market than the Petitioner's plant in Georgia. Second, questions were raised by the Department at the trial and in the briefs as to whether the construction of buildings in that particular area of the country is as durable as that here because of greater concerns here for snow load. Third, the Department points out that the plant in Wisconsin can produce paper sheets of 88" x 210", whereas the Georgia plant can only produce paper sheets of up to 61" x 80". In sum, the Petitioner failed at trial to corroborate its assertion that the two properties are truly comparable.¹⁶ The assessor's testimony establishing the differences in construction essentially went uncontroverted and the Petitioner provided no competing appraisal of the Grand Chute property or expert testimony to support treatment of the Georgia appraisal as a relevant comparable in this case. For these reasons, the Georgia appraisal is not sufficient to impeach the Department's four comparables.

¹⁵ The DePere property, for example, was adjusted downward by \$1.89 per square foot based on its higher ceiling height.

¹⁶ The appraisal for the Georgia property states on p. 24 that the walls are metal paneling and the warehouse has a 29' clear height.

V. Conclusion

In sum, the law presumes the Department's assessment to be correct. In order to win its appeal, the Petitioner needed to introduce evidence or testimony to overcome the presumption. While the Petitioner's representative is a knowledgeable and successful businessman, his testimony and the questions he asked at the hearing were not enough to overcome the testimony of the assessor and the evidence of sales of comparable properties.

ORDER

The Board of Assessors' action on the Petitioner's objection to the assessment is affirmed.

Dated at Madison, Wisconsin, this 8th day of July, 2010.

WISCONSIN TAX APPEALS COMMISSION

David C. Swanson, Chairperson

Roger W. Le Grand, Commissioner

Thomas J. McAdams, Commissioner

ATTACHMENT: "NOTICE OF APPEAL INFORMATION"