

FILED

MAR 11 2025

Wisconsin Tax Appeals Commission
Nicole Allee - Legal Assistant

STATE OF WISCONSIN
TAX APPEALS COMMISSION

BADGER MINING CORPORATION,

Petitioner,

DOCKET NOS. 21-MP-125, 21-MR-126, 21-MR-127, 21-MR-128, 21-MR-129, 21-MR-130, 21-MR-131, 21-MP-132, 21-MR-133, 21-MR-134, 21-MR-135, 21-MR-136, 21-MR-137, 21-MR-138, 21-MR-139, 21-MR-140, 21-MR-141, 21-MR-142, 21-MR-143, 21-MR-144, 21-MR-145, 21-MR-274, 21-MR-275, 21-MR-276, 21-MR-277, 21-MR-374, 21-MR-375, 21-MR-376, 21-MR-377, 21-MR-378, 21-MR-379, 21-MR-380, 21-MR-381, 21-MR-382, 21-MR-383, 21-MR-384, 21-MR-385, 21-MR-386, 21-MR-387, 21-MP-388, 21-MP-389, 21-MP-390, 22-MP-155, 22-MP-156, 22-MR-157, 22-MR-158, 22-MR-159, 22-MR-160, 22-MR-161, 22-MP-162, 23-MR-053, 23-MR-054, 23-MR-055, 23-MR-056, 23-MR-057, 23-MR-058, 23-MR-059, 23-MR-060, 23-MR-061, 23-MR-062, 23-MR-063, 23-MR-064, and 23-MP-065

vs.

WISCONSIN DEPARTMENT OF REVENUE,

Respondent; and

SMART SANDS, INC.,

Petitioner,

DOCKET NOS. 21-MR-036, 21-MP-117, 21-MR-118, 21-MR-119, 21-MR-120, 21-MR-121, 21-MR-122, 21-MR-123, 21-MR-124, 22-MR-040, 22-MP-041, 22-MR-115, 22-MR-116, 22-MR-117, 22-MR-118, 22-MR-119, 22-MR-154, 23-MP-045, 23-MR-046, 23-MR-047, 23-MR-048, 23-MR-049, 23-MR-050, 23-MR-051, and 23-MR-052

vs.

WISCONSIN DEPARTMENT OF REVENUE,

Respondent.

RULING AND ORDER

ELIZABETH KESSLER, COMMISSIONER:

This matter appears before the Commission based on a Motion for Summary Judgment brought by the Wisconsin Department of Revenue, asking the Commission to find that neither the Board of Assessors, nor by extension, the Tax Appeals Commission, has subject matter jurisdiction over this matter. The Petitioners, Badger Mining Corporation and Smart Sand, Inc., appear by Attorneys Bryan Cecil and Robert Gordon. The Respondent, the Wisconsin Department of Revenue, is represented by Attorneys Jeremy R. Lange, Jeffrey A. Evans¹, and Dana J. Erlandsen. Attorneys Cecil and Lange presented oral arguments before the Commission on December 4, 2024. The parties previously filed briefs and documents in support of their positions.

The fundamental question in this matter is whether or not Petitioners' decision to leave a portion of Forms PA-131 or PA-132 blank, specifically the second box under Section 5, described by the parties as "the basis box," is a fatal flaw under the requirements of Wis. Stat. § 70.995(8)(c)1. We find that it is not.

FACTS

The following facts are drawn from the parties' pleadings, the affidavits and exhibits submitted by the parties, and the Commission's files.

Jurisdictional Facts

1. The Petitioner, Badger Mining Corporation ("Badger Mining"), is a Wisconsin corporation engaged in the business of mining Northern White Sands

¹ Attorney Evans retired from the Department in August of 2024, and Attorney Lange and Chief Counsel Erlandsen replaced Attorney Evans for the Department.

("NWS"), also known as "frac sand," in multiple locations within the State of Wisconsin. Such activities are considered manufacturing activities and are assessed by the Wisconsin Department of Revenue ("Department").

2. The Petitioner, Smart Sands, Inc. ("Smart Sands"), is a Wisconsin corporation engaged in the business of mining NWS in multiple locations within the State of Wisconsin. Such activities are considered manufacturing activities and are assessed by the Department.

3. The Department issued assessments of Petitioners' real and personal property for tax years 2021 and 2022.

4. Petitioners timely filed objections to the assessments, with the Wisconsin Board of Assessors ("BOA"), for tax years 2021 and 2022. These objections were filed using Department Forms PA-131 or PA-132.

Material Facts

5. The instructions at the top of Department Forms PA-131 or PA-132 identify the purpose of each form as an objection to either manufacturing personal property assessment or manufacturing real estate assessment. Each form also states "Complete all sections" and "See Filing Requirements on page 2." An example of each type of objection form, filed by Smart Sands,² is attached at Appendix A.

6. Section 1 is titled "Who is filing this objection? (check one)" and offers two checkboxes: Property owner/agent or Municipality/agent. Additional

² The forms at issue, PA-131 and PA-132, were filed by both Petitioners. Although the substance of the answers varies by parcel, the overall content is similar and the Commission is of the view that one example of each form is sufficiently representative of the issue for the purposes of this analysis.

instructions for agents are included.

7. Section 2 is titled "Property Owner and Property Information" and includes 11 boxes identifying the owner, mailing, and street addresses along with the taxation district, municipality, and county.

8. Section 3 requests contact information for the owner, agent, or officer. It includes nine boxes, including one marked "Fax."

9. Section 4, titled "Assessment Information and Opinion of Value," differs between Form PA-131 and PA-132. PA-131 includes four parts: the date of the assessment notice, the State ID from the notice, six potential assessments from the notice, including a total, and 6 potential lines for "your opinion of value," including a total. PA-132 parallels PA-131 but asks only for the total assessed value and opinion of value and additionally requests the local parcel number.

10. Section 5, "Reason for Objection and Basis of Estimate" is divided into two parts for PA-131, one titled "Reason(s) for objection: (Attach additional sheets if needed)" and the other titled "Basis for your opinion of value: (Attach additional sheets if needed)." PA-132 begins with the same segments, adding an additional five subsections requesting information about any recent appraisals, sales, or sales-related activities. These subsections also request two copies of any documents related to such activities. In both cases, the largest two subdivisions are the box with instructions and room for an objector to write the reasons for the objection (the "reason box"), and the box with instructions and room for the objector to write the basis for their opinion of value (the "basis box").

11. Section 6 is titled "Submitting Additional Information," and includes the only specific statutory reference on the form, informing the objector that "Under state law (Wis. Stat. § 70.995(8)(c)2), you may submit additional information to the State Board of Assessors (BOA) within 60 days of your appeal." Section 6 also offers objectors the specific opportunity to waive their right to submit additional information by checking a box.

12. The bottom of the forms includes an attestation just above the area marked "Owner/Authorized Agent Sign Here," which reads, "I, the undersigned, declare under penalties of law that I have personally examined this form and supplemental documents. To the best of my knowledge and belief it is true, correct and complete." Below the attestation there are boxes for name, signature, company or title, and date. Next to all of these and to Section 6 there is a box reserved for Department use only, which contains a BOA# and, when the form has been filed, a Department stamp indicating the date the form was received. In very small font below the boxes, there are two final items. On the left the form number is repeated, followed by a parenthetical "(R. 6-18)" suggesting that the form was last revised in June 2018. On the right appears to be a date, in one case corresponding to the date in the signature box and in the other case a few days later. In both cases the dates are 7-10 days before the date on the receipt stamp.

13. In the objection forms at issue, Petitioners wrote text only in the reason box in Section 5, not in the basis box.

14. For the 2021 tax year, the BOA reviewed Petitioners' objections and issued Notices of Determination no later than February 24, 2022 (Smart Sands) and

February 25, 2022 (Badger Mining).

15. For the 2021 tax year, Petitioners timely filed with the Tax Appeals Commission appeals of the personal property matters on or about April 20, 2022, and of the real property matters on or about April 28, 2022.

16. For the 2022 tax year, the BOA dismissed Petitioners' objections on December 29, 2022, determining that the Objections filed on Forms PA-131 and PA-132 did not include the basis supporting Petitioners' stated opinion of full value.

17. For the 2022 tax year, Petitioners timely filed appeals with the Tax Appeals Commission on or about March 1, 2023.

APPLICABLE LAW

Wisconsin Statute 70.995(8)(c)1. All objections to the amount, valuation taxability, or change from assessment under this section under s. 70.32(1) of property shall be first made in writing on a form prescribed by the department of revenue that specifies that the objector shall set forth the reasons for the objection, the objector's estimate of the correct assessment, and the basis under s. 70.32(1) for the objector's estimate of the correct assessment. An objection shall be filed with the state board of assessors within the time prescribed in par. (b)1. A \$200 fee shall be paid when the objection is filed unless a fee has been paid in respect to the same piece of property and that appeal has not been finally adjudicated. The objection is not filed until the fee is paid. Neither the state board of assessors nor the tax appeals commission may waive the requirement that the objection be in writing. [...]. (Emphasis added.)

ANALYSIS

Summary Judgment Standard

A motion for summary judgment will be granted if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. Wis. Stat. § 802.08(2). Put another way, "The well-known purpose of summary judgment is 'to avoid trials where there is nothing to try.'" *Transportation Ins. Co. v. Hunzinger Const. Co.*, 179 Wis. 2d 281 (1993). In this case, the Department contends, and Petitioners agreed at oral argument, that there is no genuine issue as to any material fact with regard to the question of whether or not Petitioners entered any information into the basis box on Objection Forms PA-131 or PA-132, for any of the appeals at issue. The parties' dispute is solely over the legal consequence, if any, of those facts. As such, summary judgment is appropriate.

Statutory Requirements of Wis. Stat. § 70.995(8)(c)1

There are six elements the Commission must consider with regard to objections to assessments under the statutory requirements listed in Wis. Stat. § 70.995(8)(c)1: First, all objections must be made in writing; Second, they must be made on a form prescribed by the Department; Third, the form must indicate that the objector is to specify the reasons for the objection; Fourth, the objector's estimate of the correct assessment; and Fifth, the basis for the objector's estimate. Sixth, the statute specifies that neither the BOA nor this Commission may waive the requirement that the objection be in writing.

The first element, that the objections were made in writing, is clearly met by the Petitioners.

There is also no debate over the second element; the objections at issue were written on a form prescribed by the Department. The statute does not require the Department to have created one form, PA-131, for objections related to Personal Property, and a second form, PA-132, for objections related to Real Property, but neither does the statute prohibit the distinction. As with other details associated with the Department's responsibilities under Wis. Stat. § 70.32(1), the Department has a considerable amount of discretion as to exactly how it conducts assessments, though some parts of the process are specified within the statutes.

There is, additionally, no debate over the sixth element. No attempt has been made by the BOA or this Commission to waive the requirement that the objection be in writing.

The dispute here centers on the third, fourth, and fifth requirements of the statute, which are that the Department's prescribed form must "specify" that the objector shall set forth reasons for the objection, an estimate of the correct assessment, and the basis for the objector's estimate. The Department contends that the only way to meet those requirements of the statute is to respond to those requirements in the substantively parallel portion of the form. Petitioners dispute this, noting that the single-page form can easily be read and understood by members of the BOA and so long as the statutory requirements are met somewhere on the form, there is no requirement for redundantly cutting and pasting the same information in multiple locations on the form.

Review of Objection Forms PA-131 and PA-132

For the purpose of making sense of this dispute, the Commission must look to the forms themselves. As representative samples, the Commission turns to Department Exhibit B, page 1, marked as DOR000006 for Form PA-131, "Objection to Manufacturing Personal Property Assessment," and to Department Exhibit H, page 1, marked as DOR0000134 for form PA-132 "Objection to Manufacturing Real Estate Assessment." The two forms, if blank, would be substantially similar, with some additional detail about personal property requested in Section 4 of PA-131 and some additional detail about recent sales or appraisals requested in Section 5 of PA-132.

Each form is labeled with six sections, some of which include multiple subsections and some of which do not. Each also includes information and instructions at the top, an attestation for the objector to sign, and a space reserved for Department's sole use at the bottom. These are described in detail in Facts 4-11 above.

These forms, and the way in which they have been filled out by Petitioners, are the heart of this dispute. The Department argues that each Section of the form must be completely and correctly filled out or the form is fatally flawed and the Commission must dismiss the appeal. Petitioners argue that they have completed the form in substantive compliance with Wis. Stat. § 70.995(8)(6)(1), which is all that can be legally required.

We begin with a review of the aforementioned third, fourth, and fifth requirements of the statute as represented on Forms PA-131 and PA-132.

Both forms include a portion titled "Section 4: Assessment Information and Opinion of Value," which request data that would satisfy the fourth element of Wis. Stat. § 70.995(8)(c)1, namely, the objector's opinion of the correct assessment, which is identified on the form as "Your opinion of value - Total" on PA-132 and broken down into five potential subcategories as well as the objector's total opinion of value on PA-131. It appears that the Department considers the members of the BOA sufficiently expert to understand that the objector's opinion of value, total or otherwise, is the same as the statutory requirement that the objector's opinion of the correct assessment, although this is not explicit anywhere on the form³. This section also requests that the objector provide information about the assessed value, the date of the assessment, and the parcel identification number, although none of these pieces of information are specifically required by Wis. Stat. § 70.995(8)(c)1.

Both forms also include a portion titled, "Section 5: Reason for Objection and Basis of Estimate," which, as previously noted, includes a reason box and a basis box⁴. There is no mention of Wis. Stat. § 70.995(8)(c)1 requirements in Section 4 or Section 5, nor elsewhere on the form itself.

The Department contends that failure to include information in each of the box areas on the form is failure to meet the statutory requirements under Wis. Stat. §

³ Nor is the statutory language "objector's opinion of the correct assessment" used in Page 2 "Filing Requirements" for PA-132. The language used there in description of "Section 4 and 5 of this form" states "you must provide your opinion of value" instead of the statutory language, although the instructions make reference to 70.995(8)(c)1.

⁴ The Page 2 Filing Requirements make no reference to the reason box or the basis box, noting only that in completing the form "you must provide...the reason for your objection, and the basis for your opinion of value under state law (sec. 70.995(8)(c)1., Wis. Stats.)"

70.995(8)(c)1. The Department further contends that it does not matter if the objection includes the statutorily required reason, estimated value, or basis information in another part of the form, because permitting an objector to provide information anywhere the objector chooses would contravene the statutory requirement for an objector to “writ[e] on a form prescribed by the department of revenue.” If objectors do not follow the instructions to “complete all sections,” the Department contends, they have not written on the form as prescribed. Finally, the Department warns that if the Commission does not agree that the form must be filled out completely and correctly as interpreted by the Department, it will lead to future Petitioners filling out the form using the “Wingdings⁵” font or as an opportunity to practice their high school Latin.

Petitioners argue that so long as they have set forth in writing, on the Department’s prescribed Form PA-131 or PA-132, the reasons for the objection, an estimate of the correct assessment, and the basis for their estimate, they have successfully fulfilled those third, fourth, and fifth statutory requirements of Wis. Stat. § 70.995(8)(c)1. They argue primarily that the BOA is an expert body capable of reviewing Form PA-131 or 132 and determining for itself whether or not the form contains the required statutory elements. However, Petitioners also observed that both the reasons box and the basis box are grouped under “Section 5” of Forms PA-131 and 132. Based on that observation, Petitioners argue that even an interpretation of Wis. Stat. § 70.995(8)(c)1 requiring the prescribed form to be filled out according to the Department’s instructions, the

⁵ Windings is a font available in Microsoft Word software. It does not include characters that look like readable letters used in the English language, but instead appears in Microsoft Word documents as special characters, symbols, or small pictures.

instructions to "Complete each section" can reasonably be understood to have been followed if one of the Section 5 boxes is filled and includes information responsive to both "fill in the blank" Section 5 boxes.

We are sympathetic to the Department's desire that Petitioners - these and others more generally - should just fill out the objection forms completely. These Petitioners obviously understood what information was requested, and the Department agreed that if they had simply cut and pasted their responses from the reasons box into the basis box, there would be no procedural issue here.

However, the Department's position that if imperfectly completed forms create subject matter jurisdiction before the BOA and the Commission, there will be increased litigation, chaos, and an end to predictable processes is not supported by the record. In fact, it is undermined by the BOA having successfully issued a Notice of Redetermination in the 2021 tax year disputes despite the empty basis boxes. The further assertion that taxpayers might start to file objections before the BOA in Latin or in Windings has no basis in any fact introduced and is frankly ridiculous. Property owners file these objections because they want the BOA to change their assessments, and if they filed an objection in such a way that the BOA could not even read the substance of the objection, they could not hope to persuade the BOA to their point of view. The Commission is not interested in wasting time listening to or addressing over the top arguments with no reasonable likelihood or grounding in the record. We hope that in the future the Department will restrain itself from making such frivolous and overreaching arguments.

The sixth and final element of Wis. Stat. § 70.995(8)(c)1 that must be considered is the sentence, "Neither the state board of assessors nor the tax appeals commission may waive the requirement that the objection be in writing." This statement suggests that it is the fact of a written objection that is inflexible, not necessarily any specific aspect or detail of what is written. If the objection is in writing (first element), on a Form prescribed by the Department (second element), specifying the reasons for the objection (third element), the estimated correct value of the assessment (fourth element), and the basis for the estimated value (fifth element), the statement that neither the BOA nor the Commission may waive the writing requirement implies that other requirements could be waived or otherwise addressed with a degree of flexibility.

This interpretation is especially logical given that many of the taxpayers who file objections to their assessments are not attorneys, nor, typically, are the members of the BOA. The taxpayers and their accountants (who often file these forms) know their individual properties, their competition, and the market well. The BOA is comprised of experts on generally accepted appraisal techniques and the Wisconsin Property Assessment Manual. The BOA members also know the market well and have the skills and knowledge to accurately review the assessments of individual properties and to recommend appropriate adjustments when necessary. All of those individuals, acting in

good faith⁶, are looking to the substance of information contained the form, not necessarily whether or not any specific part of the form includes writing⁷.

The principles of statutory construction require us to give meaning to all of the words in the statute; to do otherwise renders the words ignored mere surplusage. This interpretation is also supported by decades of Commission practice. Although we have found some forms to be so fatally flawed as to be unable to be considered filings with the BOA or with the Commission, this is unusual. The Commission typically recognizes that many appeals are filed by non-lawyers and as such leans toward making decisions based on substance over form when possible.

The decisions where we have found petitioners' filings to be fatally flawed in form primarily occurred when the filing is untimely filed. (*Best Embroidery, LLC v. Wisconsin Department of Revenue*, Wis. Tax Rptr. (CCH) ¶ 400-997 (WTAC 2007); *Quad/Graphics Inc. v. Wisconsin Department of Revenue*, Wis. Tax Rptr. (CCH) ¶ 400-174 (WTAC 1995); among many others.) We have also found filings to be fatally flawed in form when the petitioner filed the initial objection in writing, but not using the form

⁶This should not be read to conflict with *Pierce*, *infra*. The Department should, of course, continue to review objection forms to ensure that they have been signed by property owners or their duly authorized agents.

⁷ Given that there are at least some boxes on the form that the Commission expects are often left blank, it seems particularly important not to confuse the written statutorily required elements with the entirety of the forms. For example: in Section 2 there are likely some properties where the mailing address and street address are the same and a taxpayer may not complete both sets of boxes; in Section 3 there are likely some owners, agents, or officers with no fax number; in Section 4 of PA-131 some property owners may have only one of the five types of personal property listed; in Section 5 of PA-132 some property owners may have no appraisal or sales activity in the last five years; and in Section 6, some property owners may leave the entire section blank in order preserve the right to provide additional information under Wis. Stat. § 70.995(8)(c)(2).

proscribed by the Department at all. (*Du-Well Manufacturing v. Wisconsin Department of Revenue*, Wis. Tax Rptr. (CCH) ¶ 202-021 (WTAC 1982).)

We have dismissed cases for fatal flaws as to form when the petitioner is a municipality, but the municipality has not properly authorized an appeal at the time that it is filed. The case of *City of West Allis v. Wisconsin Department of Revenue and Allis Chalmers Corp.*, Wis. Tax Rptr. (CCH) ¶ 202-656 (WTAC 1985) is somewhat analogous to this one, in that it includes specific statutory instructions that are rarely at issue before the Commission. Specifically, Wis. Stat. 73.01(5)(a) includes the requirement that, “[i]f a municipality appeals, its appeal shall set forth that the appeal has been authorized by an order or resolution of its governing body and the appeal shall be verified by a member of that governing body as pleadings in courts of record are verified.” (emphasis added). In other words, the initial appeal must indicate that the municipal governing body has authorized the appeal by an order or a resolution. In that case, the municipal assessor filed a number of years of appeals based on the verbal agreement of the Mayor and the President of the Common Council. The municipality authorized funding for the appeal and otherwise demonstrated substantive support for the appeal, but did not meet the statutory requirement of having a lawful order or resolution of the governing body prior to filing the appeal. However, that statutory requirement is straightforward: either the municipality’s governing body has issued a resolution or order to object to an assessment before the objection is filed, or no such resolution or order has been issued before the objection is filed. It is not an issue of whether or not the objection was fully or correctly

completed, but whether the statutory requirement authorizing the petition to be filed was met in advance of the petition being filed.

One of the other reasons we have found objection forms to be fatally flawed is similar to *City of West Allis*: when the filed form is signed by someone who is neither the taxpayer nor the authorized agent of the taxpayer. As a municipality must properly authorize the objection before filing it, only the owner of a property, or the owner's authorized agent, can file an objection to the assessment of the property. (*Pierce Milwaukee LLC v. Wisconsin Department of Revenue*, Wis. Tax Rptr. (CCH) ¶ 401-271 (WTAC 2009).)

Finally, we have held that these forms are fatally flawed when a taxpayer fails to include on the form their opinion of value for the property as required by Wis. Stat. § 70.995(8)(c)1. (*Food Service Products Co. d/b/a Moore's Food Products v Wisconsin Department of Revenue*, Wis. Tax Rptr. (CCH) ¶ 400-117 (WTAC 1995); *General Electric and GE Healthcare v Wisconsin Department of Revenue*, Wis. Tax Rptr. (CCH) ¶ 401-172 (WTAC 2009).) In both of those cases, petitioners failed to provide the BOA with their opinion of value of the property at issue when filing their objections on the appropriate form.

The objection forms at issue here, PA-131 and PA-132, requested information well beyond what is required by Wis. Stat. § 70.995(8)(c)1. Within individual sections of the form, the Department requests both statutorily mandated information and additional information. Certain portions of the objection forms seem likely to be left blank by a large number of objectors, for example the box in which a taxpayer is invited to waive the right to provide additional information, or the request for a fax number for the owner or authorized agent.

While there may be distinctions between the reason a taxpayer might in good faith object to an assessment and the taxpayer's basis for having a different opinion of value, the concepts are closely related and, depending on the specific situation, might be the same. The fact that the Department designed these forms to include both within a single section of the form implicitly recognizes the close relationship between the concepts.

As noted above, Wis. Stat. § 70.995(8)(c)1 specifically requires that objectors include, on their written objections, their opinion of the correct assessment. According to the Wisconsin Property Assessment Manual, "In simplest terms, an assessment is an opinion of value." (WPAM 2020, Ch. 9, p. 9-6.) The Department uses the term "opinion of value" as a synonym for the statutory term "opinion of the correct assessment." Although the Department's substitution of "opinion of value" for "opinion of the correct assessment" seems reasonable to the Commission, there is something unjust in the idea that the Department may substitute synonymous language in a form it publishes, while simultaneously arguing that petitioners may not rely on using synonymous language when completing the same form.

This matter is materially different from the cases discussed above. Here the Department contends that a form was incomplete and therefore by definition was missing statutorily required information. The Department even conceded that cutting and pasting information from one part of the form into the empty basis box would have cured the fatal flaw. In other words, the forms were not necessarily missing statutorily required substantive information; instead, the Department refused to recognize the

statutorily required substantive information when it was written two inches to the left of where the Department stated it should be written. In the most closely analogous cases above, statutorily required substantive information was actually missing from the form (*Food Service Products; General Electric, supra*). In the other cases, the forms may have been complete but were not signed by a person authorized to act for the appellant (*Pierce*) or were filed without the correct legal authorization of the appellant (*West Allis*). No such failures are present on the forms filed by the petitioners in these matters.

CONCLUSIONS OF LAW


1. Taxpayers objecting to a Manufacturing Real Estate Assessment or Manufacturing Personal Property Assessment are required to use forms PA-132 or PA-131 to file such an objection and must provide, on the form, answers to all substantive requirements under Wis. Stat. § 70.995(8)(c)1., but are not required by law to fill in every box on the form.

IT IS ORDERED

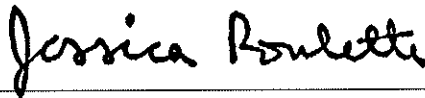
1. The Department's Motion for Summary Judgment is denied.

Dated at Madison, Wisconsin, this 11th day of March, 2025.

WISCONSIN TAX APPEALS COMMISSION



Elizabeth Kessler, Chair



Jessica Roulette, Commissioner



Kenneth P. Adler, Commissioner

ATTACHMENT: NOTICE OF APPEAL INFORMATION

APPENDIX A

Form PA-131	Objection to Manufacturing Personal Property Assessment <input checked="" type="checkbox"/> Complete all sections <input checked="" type="checkbox"/> See Filing Requirements on page 2	Wisconsin Department of Revenue
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Section 1: Who is filing this objection? (check one)

Property owner/agent * Municipality/agent * *If agent, submit current Agent Authorization Form (PA-105) with this form

Section 2: Property Owner and Property Information

Property owner name (on assessment notice) Smart Sand Inc			Taxation district (check one) <input checked="" type="checkbox"/> Town <input type="checkbox"/> Village <input type="checkbox"/> City		County Monroe
Mailing address 1000 Floral Vale BLVD Ste 225			Street address of property 29462 County CA Highway		
City Morrisville	State PA	Zip 19067-5582	City Oakdale	State WI	Zip 54649

Section 3: Contact Information

Name / title (owner, agent, officer) Clay Fowler, Agent			Company name Industrial Tax Consulting		
Mailing address 5506 W US 290 Suite #200			Phone (512) 732 - 9898	Fax (512) 732 - 9899	
City Austin	State TX	Zip 78735	Email clay@itctax.com		

Section 4: Assessment Information and Opinion of Value

Date of Personal Property Assessment Notice (mm-dd-yyyy) 06 - 08 - 2020	State ID no. (on notice) 7 9 4 1 0 3 0 P 0 0 0 5 5 2 3 0
Assessment as shown on notice:	Your opinion of value:
Boats and watercraft	Boats and watercraft
Machinery and equipment 5,515,900	Machinery and equipment 1,103,180
Furniture and fixtures 1,378,300	Furniture and fixtures 275,260
All other personal property 6,803,000	All other personal property 1,376,300
Buildings on leased land	Buildings on leased land
Total 13,495,200	Total 2,754,740

Section 5: Reason for Objection and Basis of Estimate

Reason(s) for your objection: (Attach additional sheets if needed) Due to the oversupply of capacity for NWS frac sand versus the demand and the effect of the in-basin sand coming online since 2018, this mine suffers severe economic obsolescence. The recent bankruptcies of two competitors, Hi-Crush and Covia, underscore the bleak outlook for NWS mines. Also, this mine is ran at ~60% of capacity during 2018. Projected capacity for 2020 is ~30%.	Basis for your opinion of value: (Attach additional sheets if needed) Attached is a third party economic obsolescence study that indicates 80% economic obsolescence and the capacity to contract chart. Also attached is a document that shows the dire economic straits that Smart Sand Inc is suffering.
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Section 6: Submitting Additional Information

Under state law (sec. 70.995(8)(c)2., Wis. Stats.), you may submit additional information to the State Board of Assessors (BOA) within 60 days of your appeal.

I hereby waive my right to provide additional information to the BOA under sec. 70.995(8)(c)2., Wis. Stats.

I, the undersigned, declare under penalties of law that I have personally examined this form and supplemental documents. To the best of my knowledge and belief it is true, correct and complete.

Owner / Authorized Agent Sign Here	Name (please print) Clay Fowler	Date (mm-dd-yyyy) 07 - 23 - 2020
	Signature 	
	Company or title Industrial Tax Consulting	

For Department Use Only

BOA# **79-102-PP0-20**

Form
PA-132

**Objection to
Manufacturing Real Estate Assessment**

Wisconsin
Department of Revenue

Complete all sections See Filing Requirements on page 2

Section 1: Who is filing this objection? (check one)

Property owner/agent * Municipality/agent * *If agent, submit current Agent Authorization Form (PA-105) with this form

Section 2: Property Owner and Property Information

Property owner name (on assessment notice) Smart Sand Inc			Taxation district (check one) <input checked="" type="checkbox"/> Town <input type="checkbox"/> Village <input type="checkbox"/> City		County Monroe
Mailing address 1000 FLORAL VALE BL VD STE 225			Street address of property		
City MORRISVILLE	State PA	Zip 19067-5582	City Oakdale	State WI	Zip 54649

Section 3: Contact Information

Name/title (owner, agent, officer) Clay Fowler - Agent			Company name Industrial Tax Consulting		
Mailing address 5506 W US 290 Ste 200			Phone (512) 732 - 9898	Fax (512) 732 - 9899	
City Austin	State TX	Zip 78735	Email clay@itctax.com		

Section 4: Assessment Information and Opinion of Value

Date of Real Estate Assessment Notice (mm-dd-yyyy) 06 - 13 - 2022	State ID no. (on notice) 7 9 4 1 0 3 0 R 0 0 0 1 1 4 3 8 1	Local parcel no. 030-00513-0000
Assessment as shown on notice - Total \$ 375,000	Your opinion of value - Total \$ 187,500	

Section 5: Reason for Objection and Basis of Estimate

Reason(s) for objection: (Attach additional sheets if needed) NWS Mines suffer severe economic obsolescence from competition from in-basin mines as well as government regulation of the oil and gas industry	Basis for your opinion of value: (Attach additional sheets if needed)
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In the last five years, the property was: (check all that apply and attach two copies of documents)

Appraised (for any reason) Sold Offered for sale Listed for sale Reviewed for marketing opinions

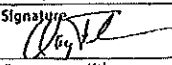
Appraisal date	Real estate appraised value	Appraiser name	Appraiser phone () -
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Section 6: Submitting Additional Information

Under state law (sec. 70.995(8)(c)2., Wis. Stats.), you may submit additional information to the State Board of Assessors (BOA) within 60 days of your appeal.

I hereby waive my right to provide additional information to the BOA under sec. 70.995(8)(c)2., Wis. Stats.

I, the undersigned, declare under penalties of law that I have personally examined this form and supplemental documents. To the best of my knowledge and belief it is true, correct and complete.

Owner / Authorized Agent Sign Here	Name (please print) Clay Fowler	Date 08 - 09 - 2022
	Signature 	
	Company or title Agent	

For Department Use Only

BOA# **79-207-REO-22**

RECEIVED
AUG 19 2022
WI DEPT. REV
Div. of State & Local Finance

7020 0640 0001 6216 68298

Objection to Real Estate Assessment

Note:

- If you would like to discuss your objection informally before the Wisconsin State Board of Assessors (BOA) reviews your appeal, contact the district office in your area
- If you do not complete this form and provide the requested information below (under Filing Requirements), the BOA will deny your appeal
- If a property owner fails to submit the Wisconsin Manufacturing Real Estate Return (M-R Form) required under sec. 70.995(12)(a) and (d), Wis. Stats., it will result in denial of any right of redetermination by the BOA or the tax appeals commission

Filing Requirements

To file an appeal, you must submit the following to the Wisconsin Department of Revenue (DOR)

1. State prescribed form

- o Under state law (sec. 70.995(8)(c), Wis. Stats.), you are required to file a state prescribed objection form with the BOA
- o You must submit a separate objection form and fee for each real estate assessment you are appealing
- o Section 4 and 5 of this form – you must provide your opinion of value, the reason for your objection, and the basis for your opinion of value under state law (sec. 70.995(8)(c)1., Wis. Stats.)

2. Filing fee – include a \$45 filing fee payable to the Wisconsin Department of Revenue

- o DOR does not consider your objection filed until you pay this fee
- o DOR waives the fee if a prior year appeal on the same property is pending, under state law (sec. 70.995(8)(c) and (d), Wis. Stats.)

3. Timely file

Property owner

- o You must file your appeal no later than 60 days after the date of the Real Property Assessment Notice
- o Your appeal is considered timely filed if the BOA receives it with the filing fee by the 60th day (or within 15 days after the municipality files an objection); or you send your appeal form by certified mail with the filing fee, and it is postmarked before midnight of the 60th day (or within 15 days after the municipality files an objection)

Municipality

- o You must file your appeal no later than 60 days after the date of the municipal Full Value Notice
- o Your appeal is considered timely filed if the BOA receives it with the filing fee by the 60th day (or within 15 days after the property owner files an objection); or you send your appeal form by certified mail with the filing fee, and it is postmarked before midnight of the 60th day (or within 15 days after the property owner files an objection)

4. Authorization

- o Agent – if an agent is representing the property owner or the municipality, the property owner or municipality must provide written authorization for the agent when submitting the objection form
- o Governing body – if a municipality is filing the objection, it must provide written authorization by the governing body when submitting the objection form

Submitting Information

Submit your state prescribed objection form with the following:

- DOR Real Property Assessment Notice
- All supporting documents, including correspondence

Where to File

Submit the objection form, \$45 filing fee and all supporting documents to:

Street Address:

Wisconsin Department of Revenue
State Board of Assessors
#6-97
2135 Rimrock Rd
Madison WI 53713-1443
Phone: (608) 267-7788

Mailing Address:

Wisconsin Department of Revenue
State Board of Assessors
#6-97
PO Box 8971
Madison WI 53708-8971

WISCONSIN TAX APPEALS COMMISSION

101 E Wilson Street, 5th Floor

Madison WI 53703

NOTICE OF APPEAL INFORMATION

NOTICE OF RIGHTS FOR JUDICIAL REVIEW FOLLOWING THE DISPOSITION OF A
TIMELY PETITION FOR REHEARING, THE TIME ALLOWED, AND THE
IDENTIFICATION OF THE PARTY TO BE NAMED AS RESPONDENT

The following notice is served on you as part of the Commission's decision rendered:

PETITION FOR JUDICIAL REVIEW

Wis. Stat. § 227.53 provides for judicial review of this 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 <https://wicourts.gov>.

This notice is part of the decision and incorporated therein.