

# 2023 Guide for Board of Review Members

## XI. Appealing a BOR Decision

If a property owner is not satisfied with the BOR decision, there are three appeal options available. There are filing requirements for each appeal option. For more detailed information review the [Guide for Property Owners](#).

If a property owner did not contest the assessment before the local BOR, no other reviewing authority will hear the property owner's case.

### A. Appeal options

- Appealing to DOR – sec. [70.85](#), Wis. Stats.
- Appealing to the circuit court – sec. [70.47\(13\)](#), Wis. Stats.
- Appealing to the municipality (excessive assessment) – sec. [74.37](#), Wis. Stats.

#### 1. Appealing to DOR

A property owner can file a written complaint with the DOR Equalization Supervisor. This appeal has several conditions.

##### a. Property owner must:

- 1) File a written complaint within 20 days after the property owner receives the BOR determination or within 30 days of the date specified on the affidavit if no return receipt of the Notice of BOR Determination exists
- 2) Pay DOR a \$100 filing fee
- 3) State the assessed value of the property does not exceed \$1,000,000
- 4) State the property being appealed is radically out of proportion to the general level of the assessments of all other property in the taxation district

This appeal process applies to either real or personal property. It is not available for properties located in first-class cities (Milwaukee). The appeal procedure is described under state law (sec. [70.85](#), Wis. Stats.).

**Note:** DOR sends an Appeal Questionnaire (PR-305B) to the municipal clerk after DOR receives an appeal of the BOR determination.

##### b. Clerk must:

- 1) Complete the Appeal Questionnaire (PR-305B) and submit it to DOR along with a copy of:
  - » Summary of BOR Proceedings Form ([PA-800](#))
  - » Property Owner Objection Form ([PA-115A](#) or [B](#))
  - » If the BOR Determination Notice was sent certified mail, a copy of the certified mail return receipt
- 2) Contact the DOR Equalization Supervisor with questions; see page 40 for additional information

##### c. Appealing a sec. [70.85](#), Wis. Stats. decision to a higher court

If the property owner finds DOR's decision unacceptable, the property owner can appeal to the circuit court. The court will review the DOR decision to determine if DOR made the proper decision.

#### 2. Appealing to the circuit court

A property owner can appeal the BOR's decision by requesting that the circuit court (in the county where the property is located) review the written record of the hearing (action of certiorari).

##### a. Property owners must do the following:

- File an appeal with the circuit court within 90 days after receiving Notice of BOR Determination
- Provide only the BOR evidence to the court

# 2023 Guide for Board of Review Members

## **b. The court decides the case solely on the basis of the written record made at the BOR**

If the circuit court finds any error in the BOR proceedings, it will return the appeal to the BOR. The court may also remand the appeal back to the BOR if it determines the BOR lacked good cause to deny the request for assessment reduction. The BOR must follow the instructions from the court when reconsidering the case. The court may order the municipality to reconvene the BOR if it has adjourned before the court's decision on the appeal.

## **3. Appealing to the municipality**

Before appealing to the municipality, the property owner must first appeal to the BOR. A property owner cannot appeal to the municipality if the property owner already appealed to the circuit court or to DOR. Under state law (sec. [74.37](#), Wis. Stats.), no claim for an excessive assessment may be brought to the municipality unless the tax is timely paid. The property owner must file a claim with the municipality by January 31 of the year the tax is payable. If the municipality denies the claim, the taxpayer may appeal to the circuit court within 90 days after receiving notice by registered or certified mail that the claim is disallowed.

### **What can be appealed**

- Claim for an excessive assessment may be filed against the taxation district or the county that has a county assessor system, which collects the tax
- Claim filed must meet all of the following conditions:
  - » Be in writing
  - » State the alleged circumstances giving rise to the claim
  - » State as accurately as possible the amount of the claim
  - » Be signed by the claimant or the claimant's agent
  - » Be served on the clerk of the taxation district, or the clerk of the county that has a county assessor system, in the manner under state law (sec. [801.11\(4\)](#), Wis. Stats.), by January 31 of the year the tax is payable based on the contested assessment
- Property owner may bring all new evidence to the municipal body
- If the municipality denies the claim, the property owner may appeal to the circuit court within 90 days after receiving notice by registered or certified mail that the claim is disallowed

## **B. Appealing a circuit court decision to a higher court**

If the property owner finds the circuit court decision unacceptable, the property owner can appeal to the court of appeals. This court will review the facts of the case considered by the lower court to determine if it applied assessment law correctly.

## **C. Appealing a court of appeals decision to a higher court**

A property owner can appeal the court of appeals decision to the Wisconsin Supreme Court. However, this court can also refuse to hear an appeal and thus let the ruling of a lower court stand. The Supreme Court has the final word in the appeal process. At this level, the court reviews all the lower court records and may request written legal briefs from each party supporting its point of view. Once the Supreme Court makes a ruling, it becomes the official interpretation of the laws of the state.