

TOWN OF CLAYTON

Board of Review Meeting Minutes

June 3, 2011
10:00 A.M. – 12:31 P.M.

Town Office Building Meeting Room – 8358 County Road T Larsen, WI 54947

I. Call to Order

Called to order at 10:00 A.M. by Russ Geise.

Roll:	Mark Luebke	PRESENT (Arrived at 10:01 A.M.)
	Kay Lettau	PRESENT
	Linda Grundman Erdmann	PRESENT
	Ann Schmidt	PRESENT
	Russ Geise	PRESENT
	Clerk Susan Nester-Huebner	PRESENT
	Assessor Mark Brown	PRESENT

Meeting properly published and posted.

Russ Geise read aloud the procedure the Board of Review will follow.

Susan Nester-Huebner stated: The following Board of Review members have completed Board of Review training –Kay Lettau, Russell Geise, Mark Luebke, Ann Schmidt, Linda Grundman Erdmann

Select Board of Review Officers:

Mark Luebke arrived at 10:01 A.M.

- Chairperson
MOTION: (Geise, Grundman Erdmann) Approve Kay Lettau to be Chairperson of Board of Review.
CARRIED by 5-0 roll call vote.
(Lettau = yes, Grundman Erdmann = yes, Luebke = yes, Schmidt = yes, Geise = yes)
- Vice-Chairperson
MOTION: (Geise, Luebke) Approve Mark Luebke to be Vice-Chairperson of Board of Review.
CARRIED by 5-0 roll call vote.
(Lettau = yes, Grundman Erdmann = yes, Luebke = yes, Schmidt = yes, Geise = yes)
- Clerk
MOTION: (Geise, Luebke) Approve Susan Nester-Huebner to be Clerk of Board of Review.
CARRIED by 5-0 roll call vote.
(Lettau = yes, Grundman Erdmann = yes, Luebke = yes, Schmidt = yes, Geise = yes)

Assessor Mark Brown: Turned over assessment roll for Clerk to sign.

- Assessor Mark Brown overviewed the following:
 - 2010 General Level of Assessment is 103.57%
 - 2010 Residential Class Level of Assessment is 103.46%
 - 2010 Commercial Class Level of Assessment 99.97%
 - 2011 Level of Assessment due out August 15, 2011
 - Effective date of Assessment is January 1, 2011 (Calendar Year 2010)
 - Sales used in defense of assessments were based upon CY 2010 sales and also CY 2009 sales.

II. Property Assessment Hearings as Scheduled

Chair Lettau detailed the hearing process.

- A. (Parcel 006-0535-02) Owner: Scott C. Reif
 1. Clerk Susan Nester-Huebner introduced the case:
 - a. Petitioner Name: Scott C. Reif
 - b. Residence address: 4496 Grandview Road, Larsen, WI 54947
 - c. Tax Key #: 006-0535-02
 - d. Property classified for assessment purposes: Commercial General
 - e. Land = \$24,500.00, Improvements = \$ 98,000.00, Total Assessment = \$122,500.00

2. Sworn in for testimony by Clerk: Scott Reif (Petitioner), Steve Krause (Attorney for Petitioner), Mark Brown (Certified Level 2 Assessor)
3. Chair Lettau addressed the petitioner and:
 - a. Read aloud general procedural information
 - b. Addressed the petitioner, asking the petitioner to state the following:
 - i. Name: Petitioner stated Scott Reif
 - ii. Address: Petitioner stated 4496 Grandview Road, Larsen, WI 54947
 - iii. Petitioner Opinion of Total Value: Petitioner stated \$180,200, as stated on the prior year assessment
4. Provided testimony: Steve Krause (Attorney for Petitioner), Assessor Mark Brown
5. Steve Krause (Attorney for Petitioner) presented the following:
 - a. Stated there is a substantial reduction in assessment
 - b. 2010 Assessment: \$180,200
 - c. 2011 Assessment: \$122,500
 - d. Stated that today's purpose is to place on the record the petitioner's formal objection to reduction of assessment.
 - e. Stated that the assessment comes at a time when the Town has entertained whether or not the Petitioner would like to negotiate the sale of his property for Town and/or Park expansion.
 - f. Stated that the contact was made to the Petitioner last fall; the Petitioner has expressed to the Town his willingness to negotiate the sale of his property; his willingness to sell the property was based upon the assessed value at that time
 - g. Stated that the Petitioner's perspective sale was an agenda item at this year's Annual Meeting; there was a vote to go forward with negotiations; one week later he received a notice of reassessment in the mail with the assessed value of his property reduced by \$57,700
 - h. Stated that the Petitioner's concern at the time was what precipitated the decrease in value at the time when the Town was to consider negotiations to purchase the property
 - i. Stated that he (Steve Krause) and the Petitioner have conversations with Mr. Brown and Mr. Johnston
 - j. Stated that he did not believe there was any sinister plot involved; stated that they are not implying that there was any sinister plot involved to reduce the assessed value of the property as a negotiation ploy, but the reduction just happened
 - k. Stated that they could not simply allow the reassessment valuation to go on without stating on the record the fact situation and making a formal objection
 - l. Stated that he does not know how the reduced assessment will affect the negotiations with the Town and is afraid that it could come back later to haunt them if they do not object
 - m. Stated that they feel compelled to make a formal objection and state the facts
 - n. Stated that the timing of the reduction in assessment and unique set of circumstances; therefore, a formal objection
 - o. Stated that a formal objection without any definitive appraisal or valuation work; that is not what they are here for; they don't want it to come back to haunt them somewhere down the line in the negotiation process, or a subsequent appraisal process that might go back and forth between the Petitioner and the Town.
 - p. Stated that he does not know if they want to go any further than the formal objection; they do not have any alternative appraisal information for the Board of Review
6. Mark Luebke asked about having the Assessor present his information on how things progressed.
7. Assessor Mark Brown responded that there were two ways to proceed.
 - a. He stated that the Board of Review is to listen to factual evidence presented to it and determine whether there is enough burden of proof presented that the assessment should be changed.
 - b. He stated that the Property Owner is contending that he is not going to offer the Board of Review any evidence as to why the assessment should be something different, other than his opinion.

- c. He stated that the Board of Review could go directly to the deliberation process that the Assessor's opinion in value is not overturned as there was no evidence presented by the Property Owner to suggest otherwise.
- 8. Mark Luebke stated that his concern is to follow protocol.
- 9. Assessor Mark Brown presented the following information:
 - a. Provided an information packet on the property.
 - b. Stated that he was not aware that the Town was interested in acquiring the property until the evening of the Town's Annual Meeting.
 - c. Stated that his notices were already printed and ready to mail.
 - d. Stated that his assessment is based upon the set-up with the Town to look at properties every year to determine what their 100% value is.
 - e. Stated that there were quite a few commercial properties in the Larsen area that were looked at and reviewed; it was just a review of the properties in the area
 - f. Stated that the assessment history of the property: Up until 2008, it was assessed at \$62,000; after the revaluation in 2008, the assessment went to \$180,200.
 - g. Stated that this year's review resulted in an assessment of \$122,500.
 - h. Stated that as he was unaware of the Town's interest in the property
 - i. Stated that there are two different purposes: an appraisal for the acquisition of the land for the Town to expand and the assessment of the land
 - j. Stated the parcel #: 006-0535-02
 - k. Stated the property location: 8366 County Road T
 - l. Stated the following information regarding the property:
 - 1) Commercial
 - 2) Service Garage
 - 3) Built in 1941
 - 4) Block construction
 - 5) ½ bath on the property
 - 6) 3,000 square foot structure
 - 7) Additional building in back – 24'x30' workshop, value of \$15,000
 - 8) Additional well on the property
 - m. Stated that he used a Cost Approach on the property. (Evidence presented)
 - 1) Replacement cost of main building – approximately \$35.00 per square foot
 - 2) Replacement cost of workshop building – approximately \$30.00 per square foot
 - 3) Applied depreciation to the property.
 - 4) Cost Approach Assessment = \$122,500
 - n. Stated that there were no sales of comparables to review.
 - o. Stated that he also used an Income Approach on the property. (Evidence presented)
 - 1) Space available for lease – Estimated \$5.00 lease rate
 - 2) Repairs/maintenance – Estimated
 - 3) Property Insurance
 - 4) Maintenance reserve accounts
 - 5) Operating Income of \$13,378.00
 - 6) Tax-loaded cap rate of about 11% (Cap rate based upon market surveys)
 - 7) Income Approach Assessment = \$120,000
 - p. Stated that more weight was placed on the Cost Approach given the estimated income.
 - q. Marshall & Swift/Boeckh, LLC, data sheet (Presented evidence)
 - 1) Cost approach
 - 2) Concrete masonry type building replacement cost of \$34.42 per square foot
- 10. Mark Luebke asked the Petitioner who spoke to him about potential interest in his property.
 - a. The Petitioner responded that Richard Johnston had spoken to him.
- 11. Mark Luebke asked the Petitioner how that came about.

- a. The Petitioner stated that Richard Johnston had asked him if he had any interest in or would be willing to sell his property to the Town for expansion purposes and, if so, the Town would need a letter from the Petitioner stating that he would be willing to look at that type of arrangement.
 - b. Mark Luebke stated that the letter was the one presented at the Annual Meeting.
 - c. Mark Luebke stated that the Town Board had not approached the Petitioner regarding interest in selling his property to the Town.
12. Mark Luebke addressed the Assessor.
 - a. Unless the Board of Review could come up with substantial arguments, or the plaintiff can come up with substantial arguments, the Assessor's assessment takes precedence.
 - b. Stated that under this unique circumstance the Board of Review is going to leave the assessment as it is, and the Town will have an outside source complete an evaluation to proceed with the potential purchase of the Petitioner's property.
13. Assessor Brown stated the following regarding the Board of Review.
 - a. Stated that its responsibility, and duty, is not to re-assess the property.
 - b. Stated its responsibility is to listen to factual evidence presented before it.
 - c. Stated its responsibility is to deliberate based upon the factual evidence.
 - d. Stated that the Board of Review has no factual evidence from the Property Owner.
 - e. Stated that the Board of Review does have an assessment in front of it.
 - f. Stated that the presumption of correctness lies with the Assessor.
 - g. Stated that since there has been no factual evidence presented, the Board of Review has no reason to proceed down that road.
 - h. Stated that the burden of proof is on the Property Owner.
 - i. Stated that if the Board of Review would deliberate on any number or value without factual evidence, evidence that is not the assessment, could be viewed as an error in judgment.
14. Mark Luebke asked the Assessor for clarification regarding the statement of an error in judgment.
 - a. Assessor Brown stated that the Property Owner has stated a value with no evidence provided, the Assessor has substantiated the assessment with factual evidence; to make a deliberation based upon some other value, or leaving it as it was, would be an error at the Board of Review level; overstepping the Board of Review bounds
 - b. Assessor Brown stated that if the Property Owner does not agree with the decision of the Board of Review, there are several avenues of appeals available – Department of Revenue Appeal, Certiorari Appeal.
15. The Petitioner asked if the previous Assessor had made a mistake by placing the \$180,000 value on the property, how that figure was arrived at, and then now at the substantially lower number.
 - a. Assessor Brown stated that, based upon this year's review of the property, which is what we are dealing with now, his evidence and his information suggests that the assessment was over-assessed at that point, based upon the current market conditions, the current cost of replacement with depreciation adjustments, and current (something stated that one cannot understand on the recording).
16. Mark Luebke stated the following:
 - a. When the 2008 re-assessment was completed, the market was at its peak
 - b. The Assessor would have looked at everything from 2002 to 2008.
17. Assessor Brown stated the following:
 - a. Not every year is a revaluation
 - b. The Town has contracted the assessing firm to keep assessments at the 100% valuation every year; they look at changes, sales, what those sales indicate, and if changes should be made.
 - c. There was a revaluation in 2008 because the level of assessment in the community had dropped to 84% and that was out of line with the state's criteria; state requirements are that assessments be within 10% of market value once within a 4-year period; it had gotten to the point that a revaluation was required in order to bring the level back into compliance; at that time the assessments were

- established at 100% market value; at that there was a revaluation done to the subject and the assessment was changed to \$180,200.
- d. Stated that based upon the criteria, this year Commercial properties and Residential properties in the area were reviewed and there was a revaluation again to bring the values to 100%; in this case it ended up going down in value based upon the revaluation.
 - e. Stated that this revaluation was CY 2011 looking at CY 2010 sales, the previous was CY 2008 looking at CY 2007 CY 2006 CY 2005 sales; he didn't find any sales this time, and if there were sales used in the previous revaluation he was unaware of them.
18. Russ Geise stated the following:
- a. Our hands are tied because to overturn this without evidence would be wrong
 - b. The timing looks poor.
19. Attorney Steve Krause stated the following:
- a. The Petitioner was not implying that there was anything done wrong, it just happened, but it does not look good.
 - b. The Petitioner does not have a current appraisal or a direct argument to the Assessor's presentation.
 - c. The Petitioner's purpose was to put on the record the factual circumstances and unique situation, and what it looks like.
 - d. Going forward the Petitioner does not know what it looks like for going into negotiations as Scott had, in the past (approximately in October 2010), expressed his interest in selling the property to the Town, at the fair market value currently listed on the real estate tax bill; as of October, 2010, it would put it in the \$170,000 when the fair market value ratio assessment is applied; that was the basis of the Petitioner's willingness to negotiate with the Town.
20. Russ Geise:
- a. Inquired about whether or not it changed the Petitioner's negotiating point or leverage.
 - b. Stated that the Town understands that the price is the price the Petitioner's looking for.
 - c. Stated that if the Town wishes to purchase the property, the Town can pay whatever price, regardless of what is on the current assessment.
21. Attorney Steve Krause stated the following:
- a. The Assessor's reassessment value may or may not have any bearing on that negotiation, may or may not have any bearing on a subsequent appraisal of the property that the Town might initiate or that the Petitioner might initiate.
 - b. The Petitioner is concerned about the timing, what it appears to look like, and not wanting this opportunity to pass without stating that he has objectives.
 - c. The Petitioner is willing to pay less in property taxes, but it doesn't look good in relationship to the verbal back-and-forth between the Petitioner and Town Officials relative to the possible sale of this property.
22. Russ Geise:
- a. Stated that he understands the Petitioner's position and that the timing looks poor.
 - b. Asked about legally going against state statutes without state statute violations.
23. Mark Luebke stated the following:
- a. That the Assessor has already answered that question.
 - b. That the Petitioner's attorney is here to place the Petitioner's objection.
 - c. That the Assessor has expressed what the Board of Review's responsibility is.
 - d. That he is always concerned with how things look.
 - e. That the Petitioner knows that, per the conversation between Mark Luebke and the Petitioner after the Annual Meeting, this was a starting point.
 - f. That it is not going to affect the negotiating point here as much as it is going to affect how the neighbors view it as maybe being a political thing.
 - g. That it appears to be we are in the deliberation point and need to redirect.
24. Assessor Mark Brown stated the following:
- a. That we are talking about a lot of secondary issues.
 - b. That today is about what the assessment and what the real estate value of the assessment of the property is.

- c. Based on the assessment, that was the basis of the value for the Assessor's office – to determine what the value, in the Assessor's opinion, was based upon the information the Assessor had.
 - d. Based on that, this was the value the Assessor felt the property was worth.
 - e. If it was sold in the open market, it is not the highest price it would sell for, it is not the lowest price it would sell for, it is the most reasonable price based on the information the Assessor has.
 - f. This is something secondary, in the Assessor's opinion, based on negotiations with the Town on a different purpose than what today is all about.
 - g. Today is about the assessment.
 - h. The Assessor feels that it is being clouded by a lot of other issues that are going on with the property.
 - i. It really doesn't matter in the grand scheme of things.
 - j. This is a value opinion. You have your own value opinion. The Town may have another value opinion for a different purpose, as to the condition of the property, as opposed to the assessment of the property.
 - k. Based on the information the Assessor has, he recommends that the Board sustain the assessment given the information provided today.
25. Attorney Steve Krause stated the following:
- a. He understands what Mark [the Assessor] is saying about this being an assessment for value for real estate property tax purposes.
 - b. He has been a real estate attorney for 35 years in this area and to say that nobody looks at a real estate property tax bill assessed value or the fair market value off of a real estate property tax bill is ridiculous – they do. It's an indicator of value.
 - c. It might not be the indicator of value, but it is an indicator of value.
 - d. He doesn't know to what extent that substantial reduction is going to make a difference on the ongoing negotiations on what a more detailed appraisal might result in, whether initiated by the Town or by the Petitioner.
 - e. Does not know what this does as far as public perception of future negotiations.
 - f. Does not think we can completely ignore the fact that this is not going to have any impact or not going to have any potential relationship to what we finally come up with here.
 - g. He [Attorney Krause] knows this process, the Petitioner could have come in here with an appraisal, but it is putting the cart before the horse.
 - h. Why would we want to initiate an appraisal for this purpose that may lock us in to something relative to the sale of the property.
 - i. It is such an unfortunate set of circumstances that this is coming up at this time.
26. Mark Luebke stated the following:
- a. He felt he and Russ Geise have overstepped their bounds by getting into the deliberative process; we should have taken the testimony first, then closed the testimony, and then get into the deliberative process.
 - b. Apologized.
27. Kay Lettau asked if there was anything further. No one had anything further.
28. Chair Lettau stated the following:
- a. All the evidence has been presented, and both the Taxpayer and Assessor have made their final summaries.
 - b. I am now closing the testimony in this case. (10:35 A.M.)
 - c. I will open up the deliberations in this case by asking the Board of Review members to state, based upon sworn testimony presented, whether the Assessor's valuation is correct or incorrect.
 - d. Asked for comments from the Board of Review.
29. Mark Luebke stated the following:
- a. Commented about Attorney Krause's the comment about an appraisal. This was all preliminary for the Town.
 - b. We as a body, have to go back to the residents with the details of a potential purchase this fall. We haven't gotten to the negotiation point yet.
 - c. He didn't believe that the Town would enter into any kind of agreement without an appraisal. Whether or not an appraiser takes into consideration, and what the

- Assessor has done, he was not sure. He won't disagree with Mr. Krause because that's a gray area.
- d. Commented about Mr. Krause's comment about past appraisals, the Town had a circumstance that when Highway 10 went through, and someone wanted to sell their property and Highway 10 would devalue their property. When they sold their property, they sold it for \$60,000.00 more than their property was appraised at by the Town's Appraiser.
 - e. Doesn't feel that an appraisal holds all of the cards, but people definitely will look at that.
 - f. He had a similar circumstance with a property owner he had in his rental community, and the person was all upset because the Assessor had lowered the value and the person was thinking of selling their house.
 - g. Again, it's the perception that that is what the value of the house is, and now he's [the Assessor] lowered it so I won't get as much.
 - h. The Town will do due-diligence with the process of negotiating with Scott.
 - i. Scott always has the option of saying well I'm going to put it on the open market.
 - j. This is a difficult thing because of the fact that it's the Town and the Town has to get the residents' approval.
 - k. He would personally be hard pressed to not change the assessment per our Assessor's recommendation.
 - l. There are steps that the other party can take to appeal that and do an appraisal process.
 - m. He respects his [the Petitioner] opinion of do we do that or go ahead and negotiate and get it over with because there will be an appraisal either way. In his mind there would have been an appraisal either way.
 - n. These are his opinions.
30. Chair Lettau asked if there were any other opinions or comments.
31. Russ Geise stated the following:
- a. He understands Scott's position here.
 - b. Thinks it will hold the Town's feet to the fire even further going forward to make sure we have that appraisal, so that we have an understanding of the starting point, and it does not seem that there's been any impropriety that has been taken on the Town's part.
 - c. The timing just stinks.
 - d. We've been pretty tough on everyone that's come through here that has wanted to lower their assessment; very few have gotten us to do that because of the amount of evidence we've required in the past – for that person to present an arm's length sale, comparative values – we've always held it because the Assessor's always assumed correct.
 - e. Doesn't know how, without any evidence, we can change the assessment.
32. Chair Lettau asked if there were any other comments, otherwise she would be looking for a motion; is the Assessor's valuation correct or incorrect.
33. Mark Luebke stated the Board of Review is not addressing if it's a correct or incorrect, it's if the Board of Review would ... if he could ask the Assessor a question.
34. Chair Lettau said the testimony portion is closed. It's based upon what she read.
35. Mark Luebke stated that what he was trying to say is that the Board of Review is not saying one or the other is incorrect, it's which one will the Board of Review be accepting.
36. Chair Lettau stated that was correct; the Board of Review understands the reasons they have presented to state and make that formal objection, which has been very clearly done.

MOTION: (Mark Luebke, Ann Schmidt) After hearing the testimony, we accept the Assessor's appraisal of the property in question, which is property number 006-0535-02, located at 8366 County Road T, for the appraised value of \$122,500.00
CARRIED by 5-0 roll call vote.
(Kay Lettau = yes, Linda Grundman Erdmann = yes, Mark Luebke = yes, Ann Schmidt = yes, Russ Geise = yes)

37. Assessor Mark Brown stated to Scott Reif that Susan (Board of Review Clerk) has a Notice of Determination slip that she will hand-deliver to you now, and that has further avenues of appeal should you not agree with the assessment.
38. Chair Lettau thanked the Petitioner and commented that the Board of Review understands.
39. Russ Geise stated that the Town will be fair and treat the Petitioner well and decently.
40. Susan Nester-Huebner hand-delivered the Notice of Determination form to the Scott Reif, the Petitioner.
41. The Petitioner's hearing ended at 10:43 A.M.

B. (Parcel 006-0535-02) Owner: Ronald and Patrice Hirn

1. Clerk Susan Nester-Huebner introduced the case:
 - a. Petitioner Name: Ronald Hirn
 - b. Residence address: 3065 Rose Moon Way, Neenah, WI 54956
 - c. Tax Key #: 006-1766
 - d. Property classified for assessment purposes: Residential
 - e. Land = \$95,000.00, Improvements = \$ 656,000.00, Total Assessment = \$751,000.00
2. Chair Lettau addressed the petitioner and:
 - a. Asked the petitioner to state the following:
 - i. Name: Petitioner stated Ronald R. Hirn, Jr.
 - ii. Address: Petitioner stated 3065 Rose Moon Way, Neenah, WI 54956
 - iii. Petitioner Opinion of Total Value: Petitioner stated approximately \$590,000.00
3. Mark Brown, Certified Level 2 Assessor, was previously sworn in and is still under oath.
4. Sworn in for testimony by Clerk: Ronald Hirn (Petitioner)
5. Chair Lettau detailed the hearing process.
 - a. Read aloud general procedural information
 - i. Name: Petitioner stated Scott Reif
 - ii. Address: Petitioner stated 4496 Grandview Road, Larsen, WI 54947
 - iii. Petitioner Opinion of Total Value: Petitioner stated \$180,200, as stated on the prior year assessment
6. Provided testimony: Ronald Hirn (Petitioner), Assessor Mark Brown
7. Ronald Hirn stated the following:
 - a. That his position was that the purchase of the subject property last August was an arm's length transaction for \$603,000.00, and that was based upon his review of the last three (3) years of looking at other properties of what he felt the market value was given market conditions.
 - b. It can be shown, that comparing the subject property to other properties in the executive home category and adjacent subdivisions, that there would be an inequity in assessed values.
 - c. He proposed that he go through why he believes that it is an arm's length transaction and see if the discussion can be closed at that point. If not, then he would proceed with reasonably comparable sales of comparable properties in the subdivisions, comparing and contrasting. If needed, we can look at recently sold properties, comparing and contrasting those. If needed, we can look at comparable homes that were built for owners, assessed but not sold, in adjacent areas.
 - d. His goal is not to chew up time, but to get to an agreeable figure that everyone can live with, without continuing this process into the next phase.
 - e. Referenced the Property Assessment Guide for Wisconsin Real Property Owners for 2011. Referenced the following steps within the guide:
 - i. The best indicator of market value is a recent arm's length sale of a property, provided it is line with the arm's length sales recently of comparable property.
 - ii. For a sale to be considered market value, or arm's length, the property must have been available on the open market for a period of time typical for the turnover time of that type of property.

- iii. This property was for sale for better than two (2) years, ample time existed in the market, for people to see it, view it, make offers, possibly close. Thinks he meets that criteria.
 - iv. Both the buyer and seller must be knowledgeable about the real estate market. Thinks he meets that criteria.
 - 1) Obviously the seller knows the real estate market; he believes he knows the real estate market, at least from the types of homes he was looking at.
 - v. He looked at executive-style homes in executive-style neighborhoods for the last three (3) years – comparable properties. Looked at those that had closed.
 - vi. Both the buyer and seller must be knowledgeable about the uses, present and potential, of the property. Property to be used for living at. Thinks he meets that criteria.
 - vii. Must be a willing buyer and seller, neither compelled to act. Stated that nobody held a gun to his head to force him to put the offer in; same was true on the seller's side, he did not need to accept the offer.
 - viii. Gain from property must be in cash or typical of normal financing; it was a combination of cash and conventional financing. He thinks he meets that criteria.
 - ix. Sales price must include all the rights, privileges, of the real estate. He thinks he meets that criteria.
 - x. According to the State of Wisconsin, the criteria they use for an arm's length transaction, he believes he has met all those criteria.
- f. He paid \$603,000.00 and he's asking \$590,000.00; because the market had dropped a little during that time, based on some analysis and statistics. The market recovered a little bit according to the general statistics. Time period – end of the year to the beginning of 2011; he viewed it as the bottom. That's how he came to the \$590,000.00 value.
- g. He prepared at least an hour's worth of presentation.
8. Mark Luebke stated the following:
- a. Asked the Petitioner if he purchased the property on 8/27/2010.
 - i. Petitioner stated they closed on that day.
 - b. Asked the Petitioner if he had made any improvements to the property since then, as far as the deck, the garage.
 - i. Petitioner stated they added a little mezzanine in the garage for above-floor storage. (six feet above the floor for bins and other small items). Just some yard work.
9. Chair Lettau addressed the Assessor, Mark Brown.
10. Mark Brown addressed the Petitioner regarding the following:
- a. The appraisal and what it had come at.
 - i. The Petitioner said he had been unable to locate the appraisal, as he had only received a card. He has recently asked for a rush appraisal. He is waiting to hear if it has arrived. In a general phone conversation it was somewhere around \$640,000.00.
 - b. About the Petitioner stating it was around \$700,000.00
 - i. The Petitioner responded that at that time, his best recollection was that. He had put down a significant amount of cash so he figured the appraisal didn't impact him a whole lot.
 - ii. The Petitioner stated that he would have had to go back through the mortgage lender to dig up the appraisal; instead he opted to have an appraisal done for this purpose (which is the one he is waiting to receive). He is under the understanding that somewhere around \$640,000.00 is the figure the appraiser arrived at). He has his phone sitting here to receive a call that the appraisal has arrived.
 - c. Asked if the property was purchased from Allure Homes and if he was aware of any duress or any issues with the sale that the property owners were under prior to selling to the Petitioner.

- i. The Petitioner responded that he was unaware of any issues with the purchase of the property; ultimately he was dealing with them, the realtor (K.C. Mauer), and the bank.
 - d. Asked if the Petitioner recalled what the property was listed for when he purchased it.
 - i. The Petitioner responded that the listing price that he had been shown was \$849,000.00.
 - e. Asked how the Petitioner how he had arrived at the price through negotiations.
 - i. The Petitioner responded with the following:
 - 1) He had been looking for homes for years and had almost closed on a home out toward Hortonville.
 - 2) Since he wanted to stay in the Neenah Joint School District, he looked at comparable properties by upper-end builders of high-quality executive homes.
 - 3) There was one out in Hortonville in the mid-\$500,000.00 range.
 - 4) There was another one out in Hortonville by Jacobs Construction (8,000 sq. ft.) for low \$700,000.00.
 - 5) Dan Ziegler's parade home, Neenah Joint School District, very beautiful home, went for \$620,000.00.
 - 6) Some of the homes he had researched are larger than the one he bought, but that is what he used to go in.
 - 7) Yesterday he talked with K.C. Mauer and he concurred that there were other bids placed on the property, much lower, which were rejected.
 - 8) He thinks he came in with what would be considered a very fair market value offer. He thinks some people would say he paid too much.
- 11. Mark Luebke asked Assessor Mark Brown to go into detail as to how he arrived at his value of the property.
 - a. Assessor Mark Brown responded that he will do so during his testimony.
- 12. Mark Luebke stated that the Petitioner should state all of his evidence and then the Assessor should state all of his evidence. He asked if the Petitioner could come back to present more evidence after the Assessor presents his evidence.
 - a. Assess Mark Brown responded that he will present his evidence based upon the property records and sales that he looked at in determining the assessment value. The Petitioner is basing the value off his purchase price and stating that the market is down.
 - b. The assessment period we are talking about is CY 2010.
 - c. The Petitioner is claiming he purchased it in 2010 for \$603,000.00.
 - d. Addressed the Petitioner, stating that he should present evidence as to how he came up with the \$590,000.00 value at this point.
 - i. The Petitioner stated that he believed he had already done that.
- 13. Mark Luebke stated the following:
 - a. The Petitioner had stated that watching the market now, it is lower.
 - b. We, as a body, have to pick one or the other number. It's either going to be \$590,000.00 or \$751,000.00
 - c. The \$603,000.00 is based on all the Petitioner's rationale.
 - d. The \$590,000.00 is based on assumptions since January 1st.
 - e. The assessments are before January 1st.
 - i. The Petitioner stated that [to clarify] from the time of purchase to January 1, 2011, the market had declined a little further yet; from \$603,000.00 to \$590,000.00.
 - f. Asked where the evidence was that the market had declined down that extra \$13,000.00.
 - i. The Petitioner responded that he had printed off something this morning by homes.com that shows that the bottom of the market was on or about 12/31/2010. It would also figure approximately 5% down, those in our area for those type of homes would maybe be about half that number.
 - g. Stated that we choose between the two numbers, we don't negotiate in between. The number the Petitioner gives us now is the number we choose between,

based upon the evidence presented. If the number is \$590,000.00, we choose between that and the \$751,000.00. If the number is \$603,000.00, we choose between that and the \$751,000.00.

- i. The Petitioner stated that his number would be \$603,000.00, which is what he paid.
14. Russ Geise asked the Petitioner if he had the purchase document that shows that you did pay \$603,000.00 for the property.
 - a. The Petitioner responded that he did not have that document.
 - b. Assessor Mark Brown responded that he had a copy of the real estate transfer document.
 - c. Understands the arm's length sale, with a willing buyer and a willing seller.
 - d. Assessor Mark Brown responded that the real estate transfer document indicates who sold to whom and what the price was.
15. Chair Lettau asked if we go to Assessor Brown's testimony, can we then go back to Mr. Hirn for additional testimony.
 - a. Assessor Brown stated that the Petitioner could still present more evidence, as it is a question-and-answer session; the Petitioner and the Assessor can also ask questions of each other to gain more information.
16. Chair Lettau asked the Petitioner if he wanted to state any additional testimony at this point.
 - a. The Petitioner responded that he did not want to waste the Board of Review time, based upon the State of Wisconsin understanding of an arm's length transaction, he thinks he has met that criteria.
17. The Petitioner stated the following:
 - a. If he did not meet the criteria, he would like to know why, as the best indicator of value, according to the State of Wisconsin, is the arm's length transaction; that is what took place.
 - b. It took him four (4) hours to prepare his presentation last night.
 - c. He would like to stop there and see where the Board is at.
 - d. It seems that the argument is whether it is an arm's length transaction or not.
 - e. An arm's length transaction at \$603,000.00 – that would be the value.
18. Assessor Brown handed out the property record form for the following property:
 - a. Parcel #006-1766
 - b. Address: 3065 Rose Moon Way
 - c. Assessment:
 - i. Land (1.2 acres) = \$95,000.00
 - ii. Improvements = \$656,000.00
 - iii. Total = \$751,000.00
 - d. Year built = 2007
 - e. Type = Custom home
 - f. Reviewed the features of the home:
 - i. Brick front
 - ii. Vinyl back
 - iii. Gas forced air with air conditioning
 - iv. 4 bedrooms, 3 full baths, 2 half baths
 - v. 3 fireplaces
 - vi. Total square footage = 5,959 (including finished basement of 1,785, above-grade of 4,174)
 - vii. Garage = 3-car, attached (1,349 square feet)
 - viii. Deck in the back
 - g. Reviewed how he arrived at the square footage.
 - h. Stated that there is a well and a septic on the property.
 - i. Reviewed the aerial views of the property.
 - j. Reviewed the sales comparisons that were used.
 - k. Stated that he did not deem the sale price as an arm's length sale given reasonable sales of other comp returns and also the conditions that the property owner/seller was under at the time given that they were going through the process of foreclosure or pre-foreclosure. It was deemed that there was compulsion and duress that would be above typical.

- I. Stated that he did look at the sales and he will present those, to show based on the other sales of executive residences in the area, of which there were only eight (8) within the calendar year of 2010 that sold anywhere within the Fox Cities area. There isn't a lot of higher end home sales that have taken place.
- m. That was the basis for not [unintelligible] after the question.
- n. That was the reason for not taking the sale price of the subject as an arm's length sale.
- o. There have been other sales by this developer that have suggested also that there is significant duress to unload the properties that they currently have.
- p. Taking a look at the sales comparisons we did have, they are not all within the Town of Clayton; there's three (3) from Appleton, one (1) from Clayton that we looked at.
- q. The following are the sales looked at:
 - i. 319 East Morning Glory Drive (City of Appleton 31-6-5304-28)
 - a) Sale date = June, 2010
 - b) Sale price = \$750,000.00
 - c) Lot size = 0.56 acres (smaller than subject lot)
 - d) Built = 2001
 - e) Type = Contemporary style, similar quality
 - f) Bedrooms = 5
 - g) Bathrooms = 4 full, one half
 - h) Square footage = 4,213 above ground; 1,566 finished basement
 - i) Fairly comparable otherwise
 - j) Fireplaces = 2 (subject property has 3)
 - k) Garage = Attached, 3-car
 - l) Adjusted out at \$748,600.00
 - m) Land value = sold at \$80,000.00 (subject property = \$95,000)
 - ii. 7764 Joseph Peters Dr. (Town of Clayton 006-1287)
 - a. Sale date = June, 2010
 - b. Sale price = \$635,000.00
 - c. Lot size = 2.61 acres
 - d. Built = 2002
 - e. Type = Contemporary, inferior quality
 - f. Bedrooms = 5
 - g. Bathrooms = 4 full, 2 half
 - h. Square footage = 4,462 above grade, 948 finished basement
 - i. Fairly comparable otherwise
 - j. Fireplaces = 1
 - k. Garage = Attached, 3-car; Detached, 2-car
 - l. Adjusted out at \$719,700.00
 - iii. 6600 N. Headwall Circle (City of Appleton 31-1-9300-14)
 - a. Sale date = May, 2010
 - b. Sale price = \$649,000.00
 - c. Lot size =
 - d. Built = 2009
 - e. Type = Contemporary, inferior quality
 - f. Bedrooms = 5
 - g. Bathrooms = 4 full, 1 half
 - h. Square footage = 4,656 above grade, 1,001 finished basement
 - i. Fireplaces = 1
 - j. Garage = Attached, 3-car
 - k. Adjusted out at \$698,300.00
 - iv. 622 E. Tallgrass Dr.
 - a. Sale date = November, 2010
 - b. Sale price = \$780,000.00
 - c. Lot size = 0.68 acre
 - d. Built = 2005
 - e. Type = Contemporary, superior quality
 - f. Bedrooms = 5
 - g. Bathrooms = 4 full, 1 half

- h. Square footage = 3,944 above grade, 1,424 finished basement
 - i. Fireplaces = 1
 - j. Garage = Attached, 3-car
 - k. Adjusted out at \$748,600.00
 - v. Reviewed the photos of the comparable homes
 - vi. Stated that there were properties that adjusted below what the assessment is, and that adjusted above what the assessment is
 - vii. Stated that looking at the comparison, the sales approach, it indicates that \$750,000.00 would apply, and the assessments would average \$725,000.00; the range was from \$600,000.00 - \$700,000.00 - \$750,000.00 for sale prices of the properties; thus, \$751,000.00 was the assessment.
19. Russ Geise stated the following:
- a. It is coming down to one question; whether the Assessor feels that the property seller, Allure Homes, was in financial trouble, and this was a duress sale on his half.
 - b. The property owner feels that it was an arm's length sale, and if it truly was an arm's length sale, a willing seller and a willing buyer; without that extra factor there, then he would be presumed correct.
 - c. Asked the Assessor what evidence he had that Allure Homes was in trouble.
 - i. The Assessor responded with the following:
 - 1) He does not have anything from Allure Homes in terms of financial difficulty, but they are in the process of "unloading" their properties because they are in the process of foreclosure; he does not have any documentation to prove that fact.
 - 2) This information was obtained from talking with Allure Homes and with the realtors that are selling their properties right now.
 - 3) A lot in Rose Moon Way was on the market for \$105,000.00 sold for \$30,000.00; all the comparable sales are \$105,000.00 for similar properties.
 - 4) They [Allure Homes] are in the process of trying to unload as many assets as they possibly can.
 - 5) We determined that based on the sale and also sales of comparable higher-end homes in the area, that this sale price was not at what market value indicated based on the sales.
 - 6) In Wisconsin, there is a three-tier criteria set up for assessment purposes:
 - a) Subject sale being the being end-all if it was an arm's length sale.
 - b) Other reasonable comparable sales that indicated that sale price may not be what the market value indicated.
 - c) Cost and income approach, which at this point it is not [unintelligible] property [unintelligible] would not yield that much information.
 - d) Certainly there are costs to build but we're looking at other sales of comparable homes indicated the price to be.
 - e) It was his determination based on the duress that the property owner prior, the seller, was under, that this wasn't the market value based on sales.
20. Mark Luebke stated the following:
- a. Going back to the first criteria which is arm length sales.
 - b. Mr. Hirn brought up the fact of it's been on the market for two-and-a-half (2 ½) years.
 - c. Mark's understanding was that it is part of the process.
 - d. Asked the Assessor for his interpretation of the length of time on the market; a year and a half is not long enough, three years is long enough.
 - i. Assessor Brown responded that the days on the market given the economic situation it is extended out for a property like this, typically he

- would expect it at least a year to two (2) years to sell because of its unique marketability.
- ii. The higher-end home market certainly has taken a hit in the recent economy, not necessarily just on the general economic conditions but also financing and access to it.
 - iii. Banks were not lending for properties for a period of a year or more unless you had a significant amount of money to put down on the property; that hampered some of these sales.
 - iv. At the same time, two (2) years is probably a good estimation; his question was a listing price of \$849,000.00 and a final price of \$603,000.00, seems like a fairly discounted price; now listings are listings and generally they are considered to be the most a property could get for it.
 - v. Keep in mind, foreclosures are also listed, sometimes on the market by a broker; they are bank-owned properties; that itself would determine it to be some kind of duress sale because the compulsion factor by the bank.
 - vi. Similar is the short-sale situation; the property owner is trying to unload the property to pay off what their mortgage is or what their liabilities are to the bank before going into a formal foreclosure process.
 - vii. He believes we're not quite at that point by Allure Homes, but thinks it's at that point where it's going to be. That is where the determination was made that this was not an arm's length sale, with the situation the prior seller was under.
- e. Asked Assessor Brown if he had the selling price.
 - i. Assessor Brown responded that he had the Real Estate Transfer Turn and that he will submit it as evidence for the record.
 - f. Asked Assessor Brown if it stated how long the property was on the market.
 - i. Assessor Brown responded that it doesn't state on it; all the Real Estate Transfer Return will indicate is who is the grantor, who is the grantee, and who prepared the document.
 - ii. Assessor Brown stated that based on that, there was an August 31st, 2010, date recorded for the transfer, and it indicated that the actual transfer of the property occurred on August 27th, 2010, and the sale and transfer permit indicated the \$603,000.00.
21. Chair Lettau asked how much it indicated; Assessor Brown responded \$603,000.00.
22. Mark Luebke asked Assessor Brown, when looking at the comparables, what his rationale was as to why this property is higher than all of the comparables adjusted; the next highest comparable property was \$748,600.00; how did the Assessor come up to \$751,000.00, if all the comparables were less.
- a. Assessor Brown responded that it was reconciled out at \$751,000.00; had he looked at it, based on the sales again, he would recommend \$650,000.00 is more in line with what the sales ended up adjusting out at; it's a range in value and it's always rounded to the nearest thousand.
 - b. Assessor Brown stated that for the purposes that he looked at, the adjusted out reconciled value was \$751,000.00.
23. Russ Geise asked Assessor Brown about the \$650,000.00 value.
- a. Assessor Brown responded \$750,000.00 and apologized.
24. Mark Luebke stated that he was confused, as the Assessor has provided four (4) comparables (\$748,600.00, \$748,600.00, \$719,700.00, and \$698,300.00), if you average them, they don't come out anywhere near \$750,000.00; they may all average out at probably \$735,000.00.
- a. Assessor Brown stated the following:
 - i. If you took an average, that would be fine; if you look at the most unadjusted properties, which is typically considered to be the most appropriate,
 - ii. If you look at a sale on the one that is adjusted the least, it would be the best indication of value.
 - iii. The most least-adjusted properties are the ones that adjusted out at \$748,600.00, or \$750,000.00, if you were to round the number down or

- up; in this case we rounded up; \$750,000.00 would be the best indication of value.
- iv. The assessment that was developed at \$751,000.00 was also looked at in terms of an equity issue with other properties, but based on a sales comparison approach, given the information provided, we recommend \$750,000.00 would be what you may want to adjust the assessment to, to reflect what the sales comparison approach included.
 - v. His range in value is in here; properties do sell in the range in value.
 - vi. Assessments are but an opinion of value, as are the sales comparison approach.
 - vii. The most adjusted property was \$698,000.00; \$700,000.00 would be his opinion based on that sale; again he went up to \$750,000.00.
 - viii. The fee appraisal also has a range in value that you look at.
25. Russ Geise asked Assessor Brown if a short sale is documented somewhere.
- a. Assessor Brown stated that he never said that this was a short sale.
26. Russ Geise stated that he totally understands the duress of a short sale and a foreclosure property; and that's well-documented; but he struggles because the Assessor seems to be making some assumptions about Allure Homes, yet this was not a foreclosed property and this was not a short sale; so he's almost tending to think this is an arm's length sale, willing buyer, willing seller, without a presumed duress that is not technically proven.
- a. Assessor Brown stated the following:
 - i. Based on other market sales of similar comparable properties, there is another criteria that is set forth in the State Statutes that if the property is looked at in terms of a sale of the property is there any other comparable properties in the marketplace that would suggest that the sale of the property was not a market value sale, does not support the market
 - ii. It would be no different than a short sale; a short sale transfer return does not indicate that it is a short sale; it indicates that it was the grantor and the grantee because at that time there was no other entities that owned that property.
 - iii. The only way you know it was a short sale is by investigating if the property lister sold it as a short sale, contact the lending institution to see if they had started a process on them or not
 - iv. In this case, it was determined by us that there was duress involved in the sale and that was more or less supported by other sales of comparable property as well as looking at what the situation was with Allure Homes documents and realtors selling their properties; that was the instrumentation we used in determining that, also looking at the sales.
 - v. You, as a Board, listening to the testimony, also have to take into account if you feel it was an arm's length sale, now would be the time to make the determination on it.
 - vi. In our interpretation and our analysis of it, it indicates that it was a market value sale based on the other sales that occurred by Allure Homes; that was the main thing.
27. Chair Lettau asked the Board if there were any other questions; she said she thought Mr. Hirn had something he would like to say, too.
28. Ronald Hirn stated the following:
- a. As those who know him well, he's not usually at a loss for words or discussion.
 - b. His wife dropped off the appraisal report if we need to get to that.
 - c. Obviously, Mark has done his comparables.
 - d. He [himself] is an individual doing some comparables.
 - e. He still believes it's an arm's length sale.
 - f. To address some of the things that Mark had stated:
 - i. Yes, the listing price is the listing price.
 - ii. He knows that the house was on the market for at least two (2) years
 - iii. You do end up in certain markets where listing price is if we nail it, great.

- iv. He's selling another property in the City of Neenah where the stark reality is, it's worth about 25% less than what he could've sold it for three (3) years ago; he doesn't like it; he still doesn't have any offers.
 - v. He asked if every single sale is a distressed sale; he doesn't believe so.
 - vi. If you look at some of these listing prices and close prices on properties
29. Mark Luebke asked if he could interrupt for one (1) second, and stated the following:
- a. The only thing he will say, Mr. Hirn, is if you've got properties that are currently on the market, he doesn't believe that listing price is something that you look at in the comparables as strictly just selling price; he believes that is an accurate statement.
 - i. Assessor Brown stated the following:
 - a) The way the way the economy has been going, actually appraisers now are starting to put the listing prices in as part of their appraisal as supporting of some of the sales, because the way the market is, there is a limited amount of sales out there, depending on the property type.
 - b) When you get into this, they are using listings; typical listings to sales right now in the area here they are from 94% to 95%; they are selling for about 5-6% less than the list price; that depends at what point you list it at.
 - c) What we usually consider as a listing is the highest price they would sell for; obviously it is listed; if it's a market sale it's going to sell within that range.
 - d) That's what we look at for listings; an opinion of value; will try to sell it for that; what it sells for is what we're basing our opinion on.
30. Chair Lettau asked Mr. Hirn about the appraisal he just brought in of his property, and asked if it was the one done at the time of purchase.
- a. Ronald Hirn stated that he just paid to have the appraisal done.
 - b. Chair Lettau asked Ronald Hirn when the appraisal was done.
 - i. Ronald Hirn stated the following:
 - a) The appraiser is putting a value on his property as of 05/27/2011; it's hot off the press.
 - b) The company was Locke and Associates; Michael J Locke was the appraiser.
 - c) He did want to add a little more substance to what Mark said; that was a shock; \$603,000.00 vs. a listing of \$849,000.00; that is a significant difference, but you can list your property at any number you want; that's about a 29% difference.
 - d) Buttercup, which is immediately adjacent to the north, just closed, that was a 38% difference; doesn't believe that it was a distressed sale.
 - e) Apple Hill, in Appleton, another high-end, executive home; that one has an accepted offer \$592,000.00, with an original list of \$939,000.00; that is a 37% reduction.
 - f) There are more examples, he just happened to grab three (3) of them quickly this morning, assuming that would be something that would come up; this is the market; this is what these homes are selling for.
 - g) We can't say that every, single sale is a distressed sale; we can say that every sale is a distressed sale.
 - h) The fact that people aren't getting what the value is worth, three (3) years ago, that's market; he alone doesn't set that.
 - i) He actually paid a little more than he needed to simply because his wife said this is the one (1), she's tired of looking.
 - j) The fact that, after the fact he found out that there were some lower offers that were rejected, tells him that there was probably some room left.
31. Russ Geise stated that getting a good deal isn't a crime.
32. Chair Lettau asked Ronald Hirn what the figure was on his recent appraisal.

- a. Ronald Hirn responded that indicated value by sales comparison approach was \$647,000.00.
33. Russ Geise responded that \$603,000.00 is reasonably within that appraisal; 6%, within the 4-5-7% range.
34. Mark Luebke asked if that was the appraisal from last year.
 - a. Ronald Hirn responded that it was the one he received today.
35. Mark Luebke asked Ronald Hirn if he had the appraisal from when the house sold last year.
 - a. Ronald Hirn responded that no, he did not; he is sure he can get that; he thinks he could go back through the person he did his lending through.
36. Chair Lettau stated that we need to take this as of January 1st, 2011, not five (5) months later.
 - a. Assessor Brown stated that you would want to use the sales they used; were they 2011 sales, were they 2010 sales; were they comparable properties; if you want to take that into account you would want to look at the sales they used; did they make any land adjustments, did they make any other adjustments; typically in a re-fi he thinks that they didn't make any land adjustments; they probably didn't make any adjustments for the building size because our [unintelligible] lean is down and dirty.
 - b. Ronald Hirn stated that there was a \$20,000.00-\$30,000.00-\$40,000.00 adjustment on size.
 - c. Assessor Brown asked Ronald Hirn what the cost approach on it was.
 - i. Ronald Hirn responded \$707,000.00.
 - d. Assessor Brown asked Ronald Hirn what the land value was.
 - i. Ronald Hirn responded site value is \$110,000.00, \$112,523.00
 - e. Assessor Brown asked Ronald Hirn what the cost per square foot was.
 - i. Ronald Hirn handed the appraisal to Assessor Brown.
 - ii. Assessor Brown responded that the cost per square foot to build was \$130.00; there is a difference in square footage between what he has and what are included in the appraisal.
 - iii. Assessor Brown stated that he only looks at the land value on the cost approach; it is a support, what is the value of land based on sales in the area; most of these lots have sold for anywhere from \$100,000.00 to \$120,000.00, for some of these lots to the back.
 - iv. Ronald Hirn stated that he didn't think they could pick and choose statistics, we should have to stay consistent in our approach; if you're looking at reasonable sales; site value \$110,000.00, \$112,000.00, \$103,000.00.
 - v. Assessor Brown stated that most of these lots have sold for anywhere from \$100,000.00 to \$120,000.00, for some of these lots that abut the back, you have a little bit larger ones for estate sized homes.
 - vi. Ronald Hirn stated that he didn't think we should pick and choose, either, we have to remain consistent in our approach; if you're going to be looking at reasonable sales, comparable sales, he thinks you'd look for that; that's assuming that we're saying it's not an arm's length transaction.
37. Mark Luebke stated that we do this once a year; his understanding that as a Board, we have one (1) of two (2) choices: Accept the Assessor's assessment or accept the Petitioner's counter; there's no gray area in between. So it's at this point, when we go into deliberation, it's \$751,000.00 or \$603,000.00.
38. Russ Geise stated that the Assessor is always assumed correct unless there's a preponderance of evidence to prove there's another consideration, another price to be taken. An arm's length sale is still, we have used that in the past, is the best indicator.
39. Chair Lettau stated that can it be assumed, since this \$647,000.00 was done in May of this year, can we assume that in January 1 of 2011, the trend has been going downward.
 - a. Assessor Brown stated the following:
 - i. It would be a point that this is based on the sale at \$603,000.00.
 - ii. He [Assessor Brown] is sure they had an analysis in the appraisal whether they felt that there was any adjustment for time.

- iii. Depending on whether they used a recent 2011 sale, or a 2010 sale, their purposes for fee appraisals is that for this specific date and time.
 - iv. The date of the appraisal was 05/27/2011, but when he visited the property, that would have been the effective date.
 - v. For assessment purposes, we are always as of January 1st of whatever year it is, so the effective date is January 1st.
 - vi. So, he [Assessor Brown] wouldn't be looking at 2011 sales, because that would be after the scope of the time.
 - vii. In Wisconsin, had Ron purchased this home yesterday, he could've come in and said the recent sale of this property, I just bought it, you, as a Board would still have to consider that, even though it was after the assessment date.
 - viii. He [Assessor Brown] may not have.
 - ix. So is a fee appraisal; they are under a different scope of work.
 - x. This was not necessarily for Ron unless he was the client; the bank was the client for this appraisal.
 - xi. The appraiser probably wouldn't be too happy knowing it was here unless he approved it because Ron may not have been the indicated, intended user of the appraisal.
 - xii. There's a lot of different factors that go into fee appraisals for whatever purposes – refinancing, purchase transaction, and the add-to- lowering purposes.
 - xiii. When you have a add-to-lowering purpose tax purpose appraisal done for this purpose, they will time-adjust it to January 1, and they will make their effective date January 1, 2011, because they know that's what the law uses.
 - xiv. That's typically considered a jurisdictional exception on the appraisal.
 - xv. In this case, it was for re-fi, on the date, and that's the purpose.
 - xvi. He [Assessor Brown] doesn't think that we're not submitting it as evidence because his opinion is \$603,000.00 and our opinion is \$751,000.00.
 - xvii. Your determination, when you deliberate is, is it an arm's length sale, is it not; essentially that is what we're talking about.
 - xviii. That's your [the Board] determination today.
40. Ronald Hirn stated the following:
- a. He's [Ronald Hirn] sure they will agree to disagree respectfully.
 - b. Maybe he misinterpreted something you said.
 - c. To question his integrity, that he [Ronald Hirn] can't have the right to bring this
41. Assessor Brown stated the following to Ronald Hirn:
- a. Oh, no. If you want to submit that you can submit that right now.
 - b. He has no problem with it.
42. Ronald Hirn stated the following:
- a. He paid a fee, or will pay a fee to the bank, to have it done because he could not locate the original document.
 - b. Nothing other.
 - c. He did not make the numbers up.
 - d. You [Assessor Brown] submit comparable sales, so he will submit this.
43. Assessor Brown stated the following to Ronald Hirn:
- a. He apologized to Ronald Hirn.
 - b. If you [Ronald Hirn] ordered this appraisal, this is for you.
44. Mark Luebke interjected with the following:
- a. In defense of Mark, all he was saying was as far as sharing it with us he didn't know.
 - b. He [Mark Luebke] didn't take it as being anything questioning your [Ronald Hirn] integrity.
45. Russ Geise said he did not take it that way either.
46. Assessor Brown stated the following to Ronald Hirn:
- a. Then the client was actually you.
 - b. You were the one that ordered the appraisal.
 - c. You were the intended user of this appraisal.

- d. Had the appraiser been [unintelligible] came in to contest it.
 - e. Most of the time when he looks at an appraisal, it's not done by the homeowner, it's done as a request for a re-fi through the homeowner.
 - f. It's just the way that the re-fi process goes; the bank is the one that ordered the appraisal and you were the wonderful owner that has to pay for it and you're never included in that appraisal.
 - g. You have a right to the copy, so that was his [Assessor Brown] only intention with that.
47. Ronald Hirn stated the following to Assessor Brown:
- a. So you're saying that normally they would make a, bring their appraisal back to a 01/01 date to be consistent with that which the assessment is, a 01/01 date.
 - b. Mark, in your opinion, what is the market for this style home in this neighborhood?
 - c. What has happened to the market from January 1 to 05/27?
 - i. Assessor Brown stated the following:
 - a) He didn't see any 2011 sales that would suggest he has any market because, as an Assessor, we're not analyzing 2011 sales; we're still in 2011.
 - b) If he were to look at 2010 sales, that's the sales that we analyzed.
 - c) What happened to the market, he doesn't know what the market has done in 2011 because he has not looked at it; that's not the scope of work that he is required to do for 2011 assessment year
 - d. Do you think there's a significant change from January 1, or just no idea?
 - i. Assessor Brown stated that he did not know.
 - ii. The market is not over yet.
 - iii. He doesn't look at statistics from a month-to-month basis, or week-to-week.
 - iv. We look at it as a snapshot of the year.
 - v. And we look at what's sold within the Town of Clayton, based on what it's assessed at, what it sold for, what on average was that ratio.
 - vi. Was it at 110% meaning that it sold for 10% less than assessed value; that would be an indication that properties have changed by about 10% in value negative from the prior year; that would indicate a negative change.
 - vii. If the ratios are fairly close to what they were last year, that would show that the values really haven't changed too much in the prior year.
 - viii. Or the individual paired sales analysis would show that this property was sold on '08, sold in '10 or '11, it was a 3%, 5%, 10%, 20% difference, what was that per year.
 - ix. How was that determined, similar to what the statistics are.
48. Mark Luebke asked Ronald Hirn to clarify the appraisal he now has – is it \$649,000.00?
- a. Ronald Hirn responded that it was \$647,000.00.
49. Mark Luebke stated the following:
- a. The only reason he brought it up is because if you are looking at analysis, you paid \$603,000.00, \$647,000.00 he could say as an outsider that, oh wow, you made a \$40,000.00 increase on your property so that means the market must be up.
 - b. Unfortunately with the market the way is you can't look at any of those things.
 - c. He respects what Mr. Brown said was that his job is all what's happened in the past.
 - d. Quite frankly it's an easier job than the rest of us who have to project what we're going to do in the future.
50. Assessor Brown stated that it's a reactionary process. We look at what happened in the prior year because our job is to reflect the changes that happened during the previous year; we're never a projection-type thing; it's just based on what happened in the past; using past analysis; that's what much of this is, is looking at current and past.
51. Ronald Hirn asked if anyone would like to contact Locke Appraisal to see what the change was from there to there; he has one (1) document that shows that the trend was up the first few months for our area.

52. Mark Luebke stated that from his standpoint, we are obligated to look at the number you [Ronald Hirn] presented today and the number he [Assessor Brown] presented today, and we pick one, from the testimony.
53. Ronald Hirn stated that that was also his understanding, but that's the next phase with the Department of Revenue.
54. Chair Lettau stated yes.
55. Assessor Brown stated that should you [Ronald Hirn] not agree with what they determine today you [Ronald Hirn] have other avenues of appeal.
56. Ronald Hirn stated that he realizes that, his preference is not to continue to waste their [Board] time, his own time, and your [Assessor Brown] time, our money.
57. Chair Lettau asked if there were any other questions yet.
58. Russ Geise asked Ronald Hirn why he got that appraisal.
59. Ronald Hirn stated that he couldn't locate the initial one.
60. Russ Geise responded that so it was to substantiate your documentation; he appreciates Ronald Hirn's effort to go that extra length to help prove your case.
61. Ronald Hirn stated the following:
 - a. He wanted to catch some of what Mark presented for comparables; there's one (1) for Joseph Peters, they have a comparable for Joseph Peters; yours has a value of \$719,000.00, theirs is \$647,000.00.
 - b. So, there's differences; your [Assessor Brown] number and his [Ronald Hirn] number.
 - c. He did his own analysis.
 - d. He and his wife looked at this property; they actually wanted to buy that property; somebody beat them to the punch; he thinks they paid a little too much for it.
 - e. It's a beautiful property.
 - f. To say that his is \$130,000.00 more valuable in assessment, he thinks that's absurd.
62. Chair Lettau stated that if Ronald Hirn wanted to present something else, that's fine, but that at some point, we will close any comments that both of you [Petitioner Ronald Hirn, Assessor Brown] can make; then the Board will be discussing and come to a decision; so, if there's anything else you want to say, now is the time.
63. Ronald Hirn stated that he wasn't sure if the Board could say "up or down" at this point; if the Board is not this way ("up"), he will keep presenting.
64. Russ Geise stated that we will be by time we get done with the deliberation.
65. Mark Luebke stated that if you're [Ronald Hirn] confident that what you've presented is your strongest argument, we have to look at those two (2) numbers again; so, like you said, you can go
66. Ronald Hirn stated the following:
 - a. He respects your [the Board] comment and your [the Board] time, but he thinks he will continue on with the presentation.
 - b. How much time does he have? (Russ Geise responded that the floor was his)
 - c. Is an hour or two (2) good? (laughing) He will speed it along; his intention is not to keep you [the Board] here.
 - d. Let's move on to some other comparable sales of properties, like properties.
 - e. We talked about, earlier, a home by Aberdeen in the Hortonville area.
 - i. 6,000 square feet
 - ii. Sold for \$550,000.00
 - f. A home by Jacobs, one of the premier builders in our area.
 - i. 8,000 square feet
 - ii. Sold for \$725,000.00 (somewhere around \$90.00 per square foot)
 - g. A home on Buttercup.
 - i. Just closed.
 - h. Asked Mark (Assessor Brown), you're not going to look at 2011, because that may not be indicative of 01/01; he thinks it is reasonable to look at that and use it as support in value; would you, in fact, be looking at that as support of value; let's assume that we don't get what we want to, his next two (2) steps in the process he doesn't get what he wants to; do you then use that when we sit down again next year.
 - i. Assessor Brown responded that no, next year he will be looking at it if it was an arm's length sale and if it was a comparable property, he would

take a look at it, absolutely. For today's purposes, he never analyzed it so he doesn't have a comment. He doesn't know about the sale; he didn't use it in his analysis; so he wouldn't have a comment on it. If you [Ronald Hirn] want me to use it, that's your right to do so. He hasn't analyzed it, he doesn't know, he hasn't looked at the property, and he has nothing to say.

- i. We chatted about a month ago.
 - i. Assessor Brown stated that this is not a chatting process, this is just evidence. We can have disagreements, and that's okay. If you want to present that as the analysis you have, that's fine. He doesn't have a comment on it because he hasn't reviewed it, he never included it in his analysis to-date, and he never deemed that property as something that he was comparing to. If you use it in further appeals, again, the Department of Revenue is looking at properties as of January 1st, 2011. He doesn't have any hypotheticals [unintelligible] on what he looked at.
 - j. He had a discussion with somebody that represents the Town for assessment, approximately a month ago; we discussed comparable properties and comparable sales; he has offered those for use in the analysis at that time.
 - k. It would appear as though those were not used.
 - l. Other ones, further away from the existing area were.
 - m. But, to say that the person didn't have an opportunity [unintelligible].
67. Susan Nester-Huebner stated to Ronald Hirn that whatever he was presenting today we will need copies of for the record.
68. Assessor Brown stated that you [Ronald Hirn] could drop them off and then pick them up, they're part of the record, if that is the only copy of them you have.
69. Mark Luebke asked one question, nothing against Mr. Hirn, but he doesn't think he has an unlimited time here; Mr. Geise made the comment that as far as whatever you need, but what is the time-frame schedule; he knows that Ronald Hirn had requested originally sixty (60) minutes.
70. Ronald Hirn stated that sixty (60) minutes, yes; less if you guys (the Board) agree right away.
71. Russ Geise stated that he knew we [the Board] didn't have anybody behind Ronald Hirn, and he had evidence, he thought we [the Board] were obligated to listen to the evidence.
72. Mark Luebke asked for clarification on time-limit; in the past we've always had [unintelligible], and he'd be fine with that, we'd be running about fifteen (15) minutes more.
73. Assessor Brown stated that there was an addition to the objection form to ask the property owner how long they felt it was going to take to present their evidence; it's a guideline, because you don't want to cut him off if there's more evidence presented; there is no rule of thumb.
74. Mark Luebke stated that that's all he was asking; he had heard that he [Ronald Hirn] had prepared it for somebody and it was four (4) hours.
75. Ronald Hirn stated that he had done it last night and it took him four (4) hours to get through it.
76. Assessor Mark Brown stated that he had presented the evidence that he had looked at in terms of the assessment; if the property owner wants to provide you more it is his right to do that.
77. Mark Luebke stated that he doesn't want to disallow him his right, he's just trying to, the four (4) hours scared him, quite frankly.
78. Russ Geise stated that he thought we were obligated to listen to his evidence.
79. Ronald Hirn stated that he will try to speed this along and that if he's glossing over things and you [the Board] needs clarification to let him know; he will try to speed this along because this is important.
80. Ronald Hirn presented the following:
 - a. Stated that he will try to hone in on the market value.
 - b. 3152 Buttercup, Neenah (Town of Clayton):
 - i. Just sold last week for \$590,000.00.
 - ii. 38% decrease from original listing price, approximately eighteen (18) months prior.
 - iii. More square footage on the upper floor.

- iv. No finished basement.
- v. Some pluses and minuses looking at step-down approach, where you make the assumption that his [Ronald Hirn] property is the absolute correct property, and make adjustments on that valuation.
- vi. Or if you look more at an appraiser's or assessor's approach, it could be more of an incremental change.
- vii. He can see values adjusting back using similar techniques that they have done during appraisals, or Mark's work, for garage size or home square footage incrementally, between \$587,000.00 and \$620,000.00.
- viii. 3152 Buttercup, Tax code 006-1404
- ix. Some stuff he has extra copies.
- x. He passed the information/pictures on 3152 Buttercup for the Board to view.
- xi. He passed the information/pictures on 3065 Rose Moon Way (Petitioner's property) to show the quality throughout.
- c. 500 Bosworth Lane, Neenah
 - i. Neenah Joint School District
 - ii. Very few sales of this size home
 - iii. Ziegler Construction, Parade Home, was his personal home
 - iv. Comparable in size
 - v. 10% more square footage above ground
 - vi. This home just under 5,900 square feet; Petitioner's home is just over 5,900 square feet
 - vii. Full brick facade
 - viii. Double city lot (Petitioner thinks the value of the land would exceed the value of his land, as city lots are very pricey)
 - ix. Large, in-ground pool (Petitioner is thinking of adding a pool – estimates the cost to install a pool would be \$60,000-\$70,000)
 - x. Very high-end construction
 - xi. Similar size garage, in fact a little larger
 - xii. Significant landscaping
 - xiii. Sold for \$620,000.00 on March 21, 2010
 - xiv. With rough cost adjustments (Petitioner calculations), value estimated between \$550,000.00-\$590,000.00 (trying to equate this property to the Petitioner's) – adjustments for things each property has that the other one doesn't.
 - xv. He passed the information/pictures on 500 Bosworth Lane for the Board to view.
- d. 2215 E. Apple Hill Blvd., Appleton
 - i. Has accepted offer of \$592,000.00 to close at end of June (Buyer is a friend of Petitioner)
 - ii. He passed the information/pictures on 2215 E. Apple Hill Blvd. for the Board to view.
- e. 7764 Joseph Peters Drive, Neenah (Town of Clayton)
 - i. Sold June 1, 2010 for \$635,000.00
 - ii. 4,063 square feet above grade (similar)
 - iii. 847 square feet below grade (Petitioner's home has more square footage as finished basement – adds value)
 - iv. Very private, 2.6-acre lot
 - v. Very nice landscaping
 - vi. All trees
 - vii. Very nice patio
 - viii. 2nd, detached garage with loft (1,040 square feet)
 - ix. With rough cost adjustments (Petitioner calculations), value estimated approximately \$650,000.00 (trying to equate this property to the Petitioner's) – adjustments for things each property has that the other one doesn't.
 - x. He passed the information/pictures on 7764 Joseph Peters Drive for the Board to view.

- f. Those would be comparable sales to see whether or not the purchase price of \$603,000.00 that Ron Hirn made is so ridiculously far out; again, he suggests that it's not.
- g. Looking at the State, the next best thing after looking at the arm's length sales and comparable homes for sale, there's a property at, he will have to come back to that, he apologizes.
- h. Now, here's one of them.
- i. 7981 Nichole Heights, Neenah (Town of Clayton):
 - i. 3,929 square feet above grade
 - ii. 1,478 square feet below grade
 - iii. Builder = Len Bachaus (Petitioner stated he was a very nice quality builder)
 - iv. Masonry, same type of interior, same type of features
 - v. 1.78 acres (1.5 times the size of the Petitioner's lot)
 - vi. Additional detached garage
 - vii. With rough adjustments, the Petitioner would equate his own property at somewhere between \$620,000.00 and \$640,000.00; it supports that their offer was a pretty fair offer that was accepted.
- j. Now, according to the State of Wisconsin, if those weren't compelling enough, we look to comparable homes that may be out there, not necessarily for sale, but comparable homes that we're trying to discuss assessments.
- k. Once again, he focused on just adjacent areas.
- l. 3102 Buttercup Rd., Neenah (Town of Clayton)
 - i. Current assessment = \$720,000.00
(Petitioner's current assessment = \$751,000.00; \$31,000.00 higher)
 - ii. Jacob's construction; assumed everyone's familiar with the quality
 - iii. Approximately 25% larger than the Petitioner's home
 - iv. Split equally between top and bottom
 - v. Square footage differs from assessors
 - vi. Property is huge, about 2.5 times the size of Petitioner's property
 - vii. Retention-type pond very similar to the Petitioner's
 - viii. Huge circle driveway in front of their house with a very ornate piece in the middle, very expensive
 - ix. They have enough concrete on that property for a small race car
 - x. Large, in-ground swimming pool
 - xi. 2nd detached garage, 4-car, masonry
 - xii. Extensive landscaping
 - xiii. Humongous patio
 - xiv. Petitioner walked around the property when it was a Parade Home
 - xv. [Blasting noise shook room; Mark Luebke stated that there is a gravel pit next door and they are blasting]
 - xvi. Petitioner stated that he would place Jacobs quality a little bit higher than Allure; they are both quality builders
 - xvii. All of these things are over and above the Petitioner's property, and his property is assessed 5% higher; doesn't make a lot of sense.
 - xviii. Looking at the approaches, the Petitioner's property would come out at about \$580,000.00 and as much as \$650,000.00, using the two (2) different approaches he had talked about.
 - xix. Once again, the step-down approach, the appraiser or assessor-type approach.
- m. 7948 White Petal Court, Neenah (Town of Clayton)
 - i. If you look at the builder's figures, 23% larger
 - ii. If you look at what the assessor has, 16% larger
(he called and asked the builder what the square footage was)
 - iii. Somewhere between 16-23% larger
 - iv. Same quality construction, actually by the same builder
 - v. They actually have an extra master bath, extra master bedroom
 - vi. Landscaping similar to the Petitioner's, nothing extensive
 - vii. Smaller lot (would have a slightly different value than the Petitioner's)

- viii. Assessment = \$685,000.00
(Petitioner’s assessment is \$66,000.00 more)
- ix. To equate this property with the Petitioner’s, it would be about \$630,000.00, using the pluses and minuses.
- n. 8172 Sage Court, Neenah (Town of Clayton)
 - i. Located in the subdivision to the north
 - ii. Assessment = \$503,000.00
 - iii. More square footage on the top, but not as much total.
 - iv. Approximately 4,400 square feet (Petitioner’s square footage is 5,900)
 - v. In the bios, it appears to be a finished basement; didn’t show up on the assessment.
 - vi. If you equalize things, from an assessment standpoint, that would put the Petitioner’s property at somewhere between \$570,000.00 and \$580,000.00; once again, trying to use the pluses and minuses, similar to the appraiser or an assessor.
- o. 3058 Buttercup Rd., Neenah (Town of Clayton)
 - i. Current assessment = \$431,000.00
 - ii. Total square footage = 4,542
(split about the same percentages, top and bottom)
 - iii. Same subdivision (as previous)
 - iv. Size adjustments
 - v. Detached garage
 - vi. Wide variations
- p. Petitioner went around to look at properties, researched; looked at a lot of properties before he bought his property; went through a lot of Parades.
- q. Went through the best information; the best comparisons are going to be the ones nearby and same quality homes.
- 81. Mark Luebke addressed the Petitioner and stated that at this time you’ve shared a lot of comparables, over and above, if they’re all going to show the same thing, asked the Petitioner if he felt that he would need to present them all.
 - a. The Petitioner [Ronald Hirn] responded to Mark that he had probably ten (10) to fifteen (15) minutes, maximum, left, and asked if that would be acceptable.
 - b. Mark Luebke stated that he was just asking a question; the Petitioner could have as much time as he wants.
 - c. Ronald Hirn stated the following:
 - i. They are all going to show the same thing unless we take a different approach at looking at assessments and try to compare properties; it’s how his assessment would match up to the others.
 - ii. Every one of them here is going to show that his would appear to be very, very highly assessed.
 - iii.
 - d. Mark Luebke stated that if the Petitioner was thinking that they would all be the same thing, and he was very thorough about this, if the Petitioner wanted to just put them all into evidence, and say here’s the other ten (10), if they’re all going to show the same thing he trusts that the Petitioner has already established that he...[no more words stated]
 - e. Assessor Brown stated that the Petitioner can present them as evidence.
 - f. Ronald Hirn responded that he can, but he’s got them here, and you wouldn’t want to read this one [coughing, words unintelligible over the coughing]
 - g. Mark Luebke apologized for interrupting [to the Petitioner]; go ahead.
 - h. Ronald Hirn stated that there were three (3) or four (4) more, please.
- 82. Ronald Hirn stated the following:
 - a. 3128 Buttercup, Neenah (Town of Clayton)
 - i. You can see a pattern; many of these look very, very similar; many are almost identical in size and use a builder that is equal in quality.
 - ii. Current assessment = \$695,000.00
(Petitioner’s assessment = \$751,000.00)
 - iii. 7,200 square feet (Petitioner’s = 5,900)
 - iv. Approximately 21% larger
 - v. High quality

- vi. Split that has more in square footage (above ground and below)
- vii. Using the Petitioner's plus and minus approach, it would be \$560,000.00 or \$580,000.00; trying to make adjustments for size values and things of that nature.
- viii. He believes the value of his [the Petitioner's] land is very overstated.
- b. 3136 Buttercup Rd., Neenah (Town of Clayton)
 - i. 4,620 square feet
 - ii. Approximately 4,400 above-grade square footage, only about 200 below-grade square footage; more above-grade than the Petitioner's, and quite a bit less below-grade.
 - iii. With his pluses and minuses, this is one of the higher ones.
 - iv. That would put his [the Petitioner's] house at between about \$626,000.00 and \$633,000.00, in his humble opinion.
- c. 3438 Grand Meadows Crossing, Neenah (Town of Clayton)
 - i. Current assessment = \$641,000.00
 - ii. 6,300+ square feet (Petitioner's = 5,900 square feet)
 - iii. Same type of quality
 - iv. Garage is about 500 square feet larger (he made adjustments for that)
 - v. Adjustments for difference in size; in square footage above and below grade
 - vi. Lot is just about twice the size [of the Petitioner's]
 - vii. Backs up against a nature preserve; very, very private
 - viii. 2.3 acres
 - ix. Looking at those, somewhere around \$614,000.00 to \$647,000.00
- d. 3116 Buttercup Rd., Neenah (Town of Clayton)
 - i. (unintelligible – several people)
 - ii. Mark Luebke stated to the Petitioner, please understand, there's no disrespect intended
 - iii. Russ Geise asked the Petitioner what he does for a living because of the thoroughness of what he [the Petitioner] presented.
 - iv. Quite a bit smaller
 - v. Pretty cool tennis court
 - vi. About 4,000 square feet
 - vii. Massive patio; approximately 2,000-3,000 square feet
 - viii. Very nice in-ground pool; probably \$30,000.00-\$40,000.00
 - ix. Garage not as big as the Petitioner's; so he made a negative adjustment there
 - x. Made adjustments for the square footage
 - xi. Even though their lot is not quite twice (2.3 acres), the Petitioner's is 1.28 acres and about double the value for the assessment.
 - xii. Very, very nice property.
 - xiii. Looking at this one, gave a wide range of \$520,000.00 to \$630,000.00.
 - xiv. Looking at an assessor's approach, with small incremental adjustments, versus the step down approach.
- e. Those presented all lead to the same thing.
- f. What he finds is that when he looks at it he looks at the square footage valuation from assessment purposes; his is way up here.
- g. He's not talking about the land; he still doesn't agree with the land valuation based upon the current market as well as comparables; he doesn't agree with that.
- h. He's focusing right now on the building.
- i. So if he looks at the building and the square footage comparisons, these properties that he is showing the Board, are 10-15-20-30% less, square footage valuation; the quality, there's not that difference.
- j. Some of you [the Board] have probably not had the opportunity to go through some of these homes; he personally has.
- k. They are beautiful homes; very high quality.
- l. He hasn't gone through all of them, to make sure that's clear, but he has been through a number of them.
- m. That's another thing that kind of leads him to, is that, is there inequity here.

- n. That's it for the presentations on the fourth section.
 - o. The State also considers, from his reading, appraisals, current or otherwise, to also be a representation of value, and he will go ahead and submit that.
 - p. He feels as though any reasonably knowledgeable individual could make adjustments, since we are taking a value here today of \$527,000.00 and back that up, he thinks that that would be pretty easily done.
 - q. Looked at a number of statistis.
 - r. The only statistic he looked at was home stock value off of a Carl Volkman website, which would give an indication that, as he stated earlier, things seem to have bottomed out by the end of the year, or January 1, then rise a little bit for our area and come March, started to fall back down a little bit.
 - s. He would suggest that we are probably at a comparable level to what we were at the end of the year, maybe slightly higher percentage-wise.
 - t. But homes still aren't moving.
 - u. Now if we spend a couple more minutes, are we past the fifteen (15).
 - v. The Assessor has the land property record card showing the \$95,000.00, that that was the purchase price.
 - w. When he looked in the files here, last Friday, he came up with a purchase price showing a document for \$72,000.00.
 - x. He thinks one of the original assessments had it at \$72,000.00, so he's not so sure that \$95,000.00 is accurate.
83. Assessor Brown stated that the property was originally purchased back in 2007 for \$105,000.00.
- a. Ronald Hirn stated that the document in the files must not be accurate.
 - b. Ronald Hirn asked if they purchased the property back in 2007 for \$105,000.00 why the assessment would be \$72,000.00.
 - i. Assessor Brown responded that that was prior to the revaluation in '08 to account for the fact that the level of assessment was not at 100%; so it would be a lower assessment relative to the sales; at the time it was higher than what the assessments were, so therefore there was a revaluation to bring them up; at that time there was an increase from \$72,000.00 to \$95,000.00; based on sales that took place in calendar year '07 and '06.
 - c. Ronald Hirn stated that the copies he passed around for the Board to review were his; he will exchange his copies for the copies he brought for the record, if that's acceptable with everyone here.
84. Ronald Hirn exchanged copies with Clerk Nester-Huebner.
85. Assessor Brown asked when the last revaluation was before 2008; Russ Geise stated he thought it was 2000.
86. Assessor Brown stated the following:
- a. The assessment in 2001 then stayed that way until the 2008 revaluation; the property was then \$95,000.00.
 - b. If you look at the assessment ratio, it's under assessed value.
 - i. Ronald Hirn stated that it was at 84%.
 - c. That's what the assessment is as it was applied, the level of assessment; it doesn't mean that that's what you paid for it, it just means that that's just what the assessment was.
 - i. Ronald Hirn stated [unintelligible] land values.
 - d. That's what the land value was, yes.
87. Ronald Hirn stated the following:
- a. As you stated about the land, some of these values are very high, but he finds it very difficult to believe that they're trying to equate them to look at recent or any other sales which there haven't been many comparable lots which would be given that much of a value.
 - b. You did mention that there was one (1) or two (2) [unintelligible] that were \$30,000.00; he thinks that's a little light; probably somewhere in that \$40,000.00-\$50,000.00 in today's market would probably be more appropriate; because it was a lot similar to his, his should be as well.
 - c. Homes prices decreased by about 33% since the time of ownership, those [unintelligible].

- d. Another one which he didn't have a sheet on, he didn't have the record card, was at 7727 Joseph Peters Drive, Neenah (Town of Clayton); it's a little bit around the corner.
 - i. In 2008, it was assessed at \$625,000.00.
 - ii. In 2009, it was sold for \$458,000.00.
 - iii. So, a pretty significant drop, and then immediately the assessment was changed.
 - iv. So, shame on him[self], he should have done this last year, but the information he had was that he couldn't do anything until the one (1) more assessment.
 - e. Assessor Brown stated that the Petitioner's [unintelligible] will be current after the Board of Review.
 - f. Ronald Hirn stated that it can happen in the current year, but before the Board of Review, then you can still...(interrupted)
 - g. Assessor Brown stated that the Board of Review finalizes the assessments and there are no more appeals for the rest of the year.
 - h. Ronald Hirn stated that that home sold for \$458,000.00, the assessment was changed to \$467,000.00; once again, pretty significant 27-25-30% difference in price; for some reason that's considered an arm's length sale; [unintelligible] feeling pretty strongly that his is not.
 - i. Ronald Hirn stated that he was not going to present any more, he was calling it quits.
 - j. Assessor Brown asked if he could offer one (1) more piece. He stated the following:
 - i. He was going back to comments made, and proof of Allure Homes going into...Allure Homes was foreclosed on for all their remaining properties in the township on September 21, 2010.
 - ii. The property closed on August 27, 2010, but Allure Homes was foreclosed on in September, 2010.
 - a) Ronald Hirn stated that that's not accurate.
 - iii. Parcel #1394, #1729, #1760, #1764, and #1775, all owned by Allure Homes, was foreclosed upon by M&I Bank on September 21, 2010; they no longer own any homes in the Town of Clayton.
 - a) Ronald Hirn stated that was not his home.
 - iv. It was not yours [Ronald Hirn] because you [Ronald Hirn] purchased it before that.
88. Mark Luebke had two (2) quick questions.
- a. He wants to clarify, Mr. Hirn, because your document officially states that in my opinion taxable value of the property on January 1st was \$590,000.00, you've altered, you've changed that now to the purchase price of \$603,000.00, is that accurate?
 - i. Ronald Hirn responded that yes, to rule out one other thing he has to discuss.
 - b. Mr. Brown, if, at this point, if the Board, my understanding is, has to choose between the two (2) numbers; if the Board chooses on the lower number, how will you, how would you alter that, how would you adjust that for the land and the buildings?
 - i. Assessor Brown responded that it would be taken off the buildings, if there was to be an adjustment made; so a negative adjustment would be made to the building improvement value; you'd leave the land as is.
 - c. Okay. That was the only two (2) questions he had.
89. Chair Lettau asked for comments; no comments so then she closed the testimony in this case (12:18 P.M.). She will now open it up to deliberation in this case by asking the Board of Review members, to state, based upon sworn testimony presented, whether the Assessor's valuation is correct or incorrect.
90. Chair Lettau asked [the Board] for comments, discussion.
91. Mark Luebke stated the following:
- a. He was just going to comment that this started out with the arm-length sale
 - b. We're in a setting now that is difficult for everything, but he respects what Mr. Hirn has presented as far as all the other evidence.

- c. The only thing that he did notice, and Mr. Geise noticed that as he passed it along, was the fact that the asking price and the selling price doesn't necessarily mean duress.
 - d. The length of time on the market, and the fact that Allure Homes were going out of business, he thinks offsets each other, knowing what the markets are; he, personally, think at this point in time that it was an arm-length sale; and all the other information that he passed along, although it reinforces, he's looking at the arm-length sale portion, and he would tend to say that he feels, under the circumstances, that \$603,000.00 would be the price.
92. Russ Geise stated the following:
- a. He had Russ at arm's-length sale.
 - b. We could've dispensed with the rest, but...(nothing further)
 - c. He was pretty well convinced that it was a willing buyer, willing seller, even, he'd take the arm's-length sale as proof of value itself.
93. Ann Schmidt stated the following:
- a. She also believes in the proof of being the arm's-length sale.
 - b. That is what we [the Board] have done in the past.
94. Chair Lettau stated the following:
- a. The fact that, within a month, Allure is foreclosed on all the rest of their properties, makes her really question whether this was a true arm-length sale because they could be in a rush to get what they could before the foreclosure, within a month.
95. Mark Luebke stated the following:
- a. He will add to that; he would not disagree if it hadn't been on the market for a lengthy period of time; he would agree if it had been a shorter period of time, but being the length of the market and what markets have done, (interrupted)
96. Chair Lettau stated the following:
- a. But if it's two (2) years or a little bit more, it's about time to dump this off, I've got somebody who's made an offer, I'll get rid of it.
 - b. This assessment that just came in today, for May, was \$647,000.00; now that, then for us to accept \$603,000.00, is less than that current assessment, and that bothers her.
97. Mark Luebke stated that it bothers him, too.
98. Chair Lettau stated a lot.
99. Mark Luebke stated the following:
- a. He will put the two (2) points to that.
 - i. The Assessor is \$100,000.00 off in one (1) direction.
 - ii. The homeowner is \$45,000.00-\$48,000.00 off in the other direction.
 - b. Hopefully all the taxpayers are going to understand that this, in the long run is going to affect all the services in the Town because as the values go down, we can't raise taxes.
 - c. But the point of the matter is, that's why he asks the question, do we have a, can we negotiate.
100. Chair Lettau stated that no, we can't.
101. Mark Luebke state that we're [the Board] stuck between \$603,000.00 and \$751,000.00.
102. Chair Lettau stated that what you're [Mark Luebke] suggesting is that we [the Board] accept something perhaps lower than the real price today; you're accepting \$603,000.00
103. Mark Luebke stated that today's price doesn't matter, January 1st does; we [the Board] went through this in '08 because everybody was up in arms because the values all skyrocketed because we [the Town] hadn't done a revaluation since 2002, and everybody, he remembers Bob Grundman, Bob's property skyrocketed, Jeff Boe's property skyrocketed because the market, everybody did; now we're back to the point of now it's starting to come back, now this, he personally us [the Board] doing this is going to have a whole slew of people coming in next year, but it is an arm-length sale; if the next person comes along and said I had an arm-length sale, that's the defining criteria number one, and Russ made a good point, and he felt the same way, that he thinks Mr. Hirn had expressed his case. This was, he [Mark Luebke] doesn't believe that he knew that Allure Homes was going was about ready to file bankruptcy, so, and if he did, whatever, but foreclosure, or whatever the case

104. Chair Lettau stated that you [Mark Luebke] honestly don't think that Allure Homes is going to accept whatever offer to sell their last property before they're foreclosed on within a month and they lose the rest.
105. Mark Luebke stated that oh, no, he [Mark Luebke] honestly believe they would, but does that create the duress sale
106. Chair Lettau stated that yes, in her mind, in her opinion it does.
107. Mark Luebke stated that the only thing, and it has no bearing on this whatsoever, but the only (interrupted)
108. Chair Lettau stated because that defines whether it's an arm-length sale or not; if there is duress, then that is not an arm-length sale.
109. Linda Grundman Erdmann stated that but if Mr. Hirn had not had this appraisal done now, we would not know that.
110. Mark Luebke stated that the \$649,000.00.
111. Linda Grundman Erdmann responded yes.
112. Mark Luebke responded that he agreed; he didn't know what the appraisal was at the end of the year, and if he would have brought that in and it would've been at \$620,000.00 and he was asking for \$603,000.00, his {Mark Luebke} question would be why isn't it \$620,000.00, but that's what (interrupted)
113. Chair Lettau stated that she would've like to also have seen that appraisal that was done at the time of the sale; that would've been verification of whether that was a true arm-length sale.
114. Ronald Hirn stated so it would be a...I can't talk?
115. Chair Lettau responded no.
116. Mark Luebke stated that "the flip side of that is the whole market's duress; so if that's the case, then he, believe me, I know what I'm doing here, I'm cutting our nose off despite our face because there's \$150,000.00s there that that is going to affect what the taxpayer, what comes in for us [the Town] to do our operations and we're going to be tight; but on the other hand, again it goes back to defining an arm-length sale and I think he's defined this is an arm-length sale."
117. Chair Lettau stated that "I jotted down most of the numbers, not all of them, and they don't average \$603,000.00; you know, I think they're averaging higher than that; not \$751,000.00, but" (interrupted)
118. Russ Geise stated "but that's the point, we're either stuck between \$603,000.00 and \$751,000.00."
119. Chair Lettau stated "they're averaging more than \$603,000.00, then I think, again, we're just, and I realize he has another avenue, another recourse, another step that he could take."
120. Mark Luebke stated "If our Assessor had assessed it at \$675,000.00 and he had come in with \$603,000.00, would my decision be, would my opinion be different, yes. My opinion isn't different at this point because there's such a large gap, and Mr. Hirn was going on his purchase price. If he [Mr. Hirn] had said \$590,000.00 and we were at the \$751,000.00, I would have been a little more hard pressed to go to \$590,000.00, then I'm stuck with which one do we choose. We're actually arbitrators we're not negotiators."
121. Chair Lettau stated "None of these comparables that the Assessor presented were anywhere near \$603,000.00."
122. Mark Luebke stated "I understand that."
123. Russ Geise stated "If we could pick another number in between as a compromise I would, but at this point, I can't, I'd rather"
124. Mark Luebke stated "I still struggle with the comparables that the Assessor brought in also because they're wide range and this house he appraised at higher than all of the comparables which I don't, but I'm not an assessor. All I have the ability to do is I'm accepting the Assessor's I'm accepting the property owner's."
125. Chair Lettau stated "But two (2) of the comparables are within \$3,000.00."
126. Mark Luebke stated "But they're \$3,000.00 lower."
127. Chair Lettau stated "But these are within a narrower band than the numbers that were presented which range from \$431,000.00 to \$750,000.00."
128. Russ Geise stated "We're at the low end, if I had a choice I'd prefer to be up that's you know up higher but I don't have that choice so I."
129. Susan Nester-Huebner stated "May I ask Mr. Hirn to adjust his and initial his price here for the Board?"

- 130. Mark Luebke stated “Yes.”
- 131. Chair Lettau “Yes you have to do that.”

MOTION: (Luebke, Grundman Erdmann) Set the assessed value at the \$603,000.00 purchase price that the property owner presented which was as of 08/27/2010 for Ronald Hirn.

Discussion on Motion:

- 132. Mark Luebke stated “I don’t mean to be disrespectful in any manner whatsoever and I don’t believe Mr. Brown was either, it’s not a fun job.”
- 133. Ronald Hirn stated “I appreciate your time.”
- 134. Mark Luebke stated “We’ve got to take a vote. I should not have spoken
- 135. Chair Lettau stated “Roll call vote.”

Roll Call Vote on Motion:

Lettau = no, Grundman Erdmann = yes, Luebke = yes, Schmidt = yes, Geise = yes

MOTION CARRIED by 4-1 roll call vote. (Lettau = no)

- 136. Chair Lettau stated “The motion carries.”
- 137. Mark Luebke stated “Can I say something only” (interrupted)
- 138. Chair Lettau stated “Do we close first?”
- 139. Mark Luebke stated “No, because I just want to bring this up as knowledge for the Board and afterwards I don’t think we should be talking about it. Everybody knows I bought the property in Florida. Florida has taken a property that was \$225,000.00 assessed back how many years ago and assessed it at the purchase price that I bought it at. It’s a different state, different philosophy but I think we’re going to see values continue to dip for a while yet and this is not the end of it. So,”
- 140. Chair Lettau stated “Okay, with that, then we have completed all of the review applications; is there a motion to adjourn?”

III. Adjournment – 12:31 P.M.

MOTION: (Schmidt, Geise) Adjourn sine die.
CARRIED by unanimous voice vote.

Respectfully Submitted, Susan Nester-Huebner, *Board of Review Clerk*