

Board of Review (BOR) - Hearings/Proceedings

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1. How is the BOR chairperson selected?

BOR members select the BOR chairperson at the first BOR meeting.

2. Is the chief executive officer (or his/her designee) automatically the BOR chairperson if he/she attends the required BOR training?

No. There is no requirement that the person who receives the required BOR training, becomes the BOR chairperson.

3. What is the minimum number of Board members required to hear objections?

As few as two members may hold a hearing of the evidence if the requirements of state law (sec. 70.47(9), Wis. Stats.), are met. However, if one or more member is removed, then three or more BOR members must hear the objection to issue a determination.

4. **What if the assessor did not change the value at Open Book and the case went to the BOR where the assessor agreed with what the property owner presented?**

If the assessor agrees with the property owner at Open Book, the value must be changed at that time before the assessor's affidavit is signed. Once the affidavit is signed, the assessor is required to defend the value in the roll unless an obvious palpable error was made. In all cases, the BOR must decide based on the evidence presented to it.

5. **What is the impact on the BOR if the municipality does not pass an income information confidentiality ordinance?**

There is no impact on the BOR in its attempt to obtain information needed to make a decision. The assessor can request income and expense information from the property owner without an ordinance; however, a confidentiality ordinance does help the assessor obtain the information.

6. **Does the BOR need to record deliberations?**

Yes. All BOR proceedings must be recorded in the clerk's minute book, and either by a stenographer or by a recording device. This includes both the evidentiary hearing and the deliberative sessions.

7. **What should the BOR do if a property owner refuses a written request by certified mail for the assessor to conduct an exterior view of the property?**

The BOR should conduct a prehearing and establish whether an exterior view was permitted. If it is found that the written request by certified mail to conduct an exterior view of the property was refused, state law (sec. 70.47(7)(aa), Wis. Stats.) allows the BOR to deny the property owner or his/her agent an appeal to the BOR. The BOR should not issue a "Notice of Board of Review Decision."

2017 Act 68 allows the BOR to deny a hearing to a property owner who does not allow the assessor to complete an exterior view. However, the Wisconsin Supreme Court expressed due process concerns regarding a similarly worded statute in *Milewski v. Town of Dover*, 2017 WI 79, 377 Wis. 2d 38, 899 N.W.2d 303. It is DOR's recommendation to allow a BOR hearing even if the property owner denied an interior or exterior view. The lack of access to view, and the credibility of evidence offered can be managed as an evidentiary issue at a BOR hearing, rather than denying access to the BOR.

8. **What should the BOR do if the property owner fails to answer on the objection form, "What is the taxable value of the property as of January 1?"**

Before swearing in the property owner, the BOR clerk should ask the property owner to submit a properly completed form. If the property owner refuses to complete the entire form, the BOR should conduct a pre-hearing and determine it will not hear the case. Under state law ([sec 70.47\(7\) Wis. Stats.](#)), a written objection is required and states that, "...the board shall require that any forms include stated valuations of the property in question." The BOR should not issue a determination notice. When the value being appealed is based on a market value class, case law is well-established on the necessity of the appellant providing an opinion of value on the objection form. If the appeal is of a non-market value class, the clerk should ask for the approximate acres and an estimate of the correct assessed value of those acres.

9. **Can I appeal directly to the circuit court without going to the BOR?**

- Since 2015, the BOR has the authority to waive a BOR hearing (at the request of the property owner, assessor or at its own discretion) and allow the property owner to appeal directly to the circuit court. To request a waiver, the property owner must:
 - Submit [Form PA-813-Request for Waiver of Board of Review Hearing](#) to the BOR clerk
 - Provide the BOR clerk with 48-hour notice of intent to appeal before the first BOR meeting
 - Complete the objection form ([Form PA-115A-Objection Form for Personal Property Assessment](#) or [Form PA-115B-Objection Form for Personal Property Assessment](#))
- At the first BOR meeting:
 - BOR reviews hearing waiver requests
 - BOR may grant the waiver and issue a decision sustaining the assessment established by the assessor
 - BOR may deny the waiver and require the property owner to appear before the BOR
- Circuit court
 - An action under sec. 70.47(13), Wis. Stats., must be commenced within 90 days of the receipt of the notice of the waiving of the hearing. An action under sec. 74.37(3)(d), Wis. Stats., must be commenced within 60 days of the receipt of the notice of the waiving of the hearing.
- If the BOR grants your waiver, you can no longer:
 - Claim an excessive assessment, under sec. 74.37, Wis. Stats.
 - Appeal to DOR, under sec. 70.85, Wis. Stats.

10. Can I provide information to the BOR over the phone or in writing?

The BOR is required to hear upon oath, by telephone, all ill or disabled persons who present the BOR with a letter from a physician, osteopath, physician assistant, or advanced practice nurse prescriber confirming their illness or disability.

Starting in 2015, the BOR may accept sworn information over the telephone or a sworn written statement:

- Property owner must submit a [Request to Testify by Telephone or Submit a Sworn Written Statement Form](#) to the BOR clerk
- BOR determines whether it will accept information in writing or over the phone
- Property owner must provide the 48-hour notice of intent to appeal
- Property owner must complete the objection form
- BOR reviews all requests at first meeting

11. If a municipality is conducting a revaluation, does it have to provide a 30-day notice for its initial BOR meeting which is held for adjourning to a future date?

- Yes. The 30-day notice applies to the initial BOR notice when the municipality is conducting a revaluation.
- If the assessment roll is not complete at the time of the BOR, the clerk may use a shortened BOR notice

12. If the first BOR meeting adjourns to a future date since the assessment roll is not complete, does the municipality need to provide another 30-day notice?

Yes. When the assessment roll is complete and the BOR date is set, the clerk must provide a 30-day notice of the meeting.

- BOR holds its first meeting and may adjourn as necessary
- Whenever the BOR adjourns for more than one day, the clerk must post a written notice on the meeting place door, stating the date and time the BOR will resume meeting

For more property assessment information, visit the [property tax home page](#).

February 22, 2018