

**COURT OF APPEALS
DECISION
DATED AND FILED**

December 17, 2009

David R. Schanker
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2008AP3099

Cir. Ct. No. 2007CV14619

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

STATE OF WISCONSIN EX REL. FRANK LISKA AND PEGGY LISKA,

PETITIONERS-APPELLANTS,

v.

**VILLAGE OF HALES CORNERS, BOARD OF REVIEW OF THE VILLAGE
OF HALES CORNERS AND MICHAEL WEBER,**

RESPONDENTS-RESPONDENTS.

APPEAL from a judgment of the circuit court for Milwaukee County: CHARLES F. KAHN, JR., Judge. *Affirmed.*

Before Vergeront, Lundsten and Higginbotham, JJ.

¶1 PER CURIAM. Frank Liska and Peggy Liska appeal from the judgment of the circuit court that dismissed their certiorari petition against the Village of Hales Corners, the Board of Review of the Village of Hales Corners,

and Michael Weber. The Liskas argue that the Board of Review erred when it accepted the assessor's valuation of their property. We conclude that the Board did not err, and affirm.

Background

¶2 The Liskas own a home in the Village of Hales Corners. In 2007, the assessment on that property was increased from \$247,500 to \$333,800. The Liskas filed an objection asserting that the fair market value of their home was \$300,000. The assessment was not changed at the Open Book Conference. The Liskas then went before the Board of Review and argued that the assessment should be reduced.¹ The Liskas presented evidence to the board, and the board heard testimony from the assessor. The board ultimately decided to uphold the assessor's determination. The Liskas petitioned the circuit court for certiorari review of the board's decision. The circuit court dismissed the petition.

Analysis

¶3 We do not have jurisdiction to disturb the findings and determinations of a board of review, except when the board "acts in bad faith or exceeds its jurisdiction." *State ex rel. Brighton Square Co. v. City of Madison*, 178 Wis. 2d 577, 582, 504 N.W.2d 436 (Ct. App. 1993). We review the board of review's determination independent of the circuit court's determination. *Id.* at 584. Our role is "to determine, from the evidence presented to the board of review, whether the valuation was made on the statutory basis." *State ex rel. Flint*

¹ Initially, the Liskas argued the assessment should be \$283,983. They eventually argued it should be about \$307,000.

v. Kenosha County Bd. of Review, 126 Wis. 2d 152, 156, 376 N.W.2d 364 (Ct. App. 1985).

¶4 The assessor’s valuation is presumed to be correct. *Brighton Square*, 178 Wis. 2d at 582. We will not disturb the board’s findings “if the evidence presented in favor of the assessment furnishes a substantial basis for that valuation.” *Id.* The method of valuation, however, must be in accord with the statutes. *Id.* “Failure to make an assessment on the statutory basis is an error of law, correctable by the courts on certiorari.” *Id.* The presumption of correctness does not apply to an assessment that did not apply the principles of the *Property Assessment Manual*. *Adams Outdoor Adver., Ltd. v. City of Madison*, 2006 WI 104, ¶56, 294 Wis. 2d 441, 717 N.W.2d 803. The objector must overcome the presumption of correctness by a “sufficient showing” that the assessor’s valuation was incorrect. WIS. STAT. § 70.47(8)(i) (2007-08).²

¶5 The Liskas argue that the assessor’s valuation is not entitled to the presumption of correctness. Specifically, they argue that the assessor violated WIS. STAT. § 70.47(8)(h) because he did not provide the Board of Review with all of the evidence on which he based his assessment. This statute requires that the assessor “provide to the board specific information about the validity of the valuation to which objection is made and shall provide to the board the information that the assessor used to determine that valuation.” The Liskas argue that this means that the assessor must provide the board with physical evidence

² All references to the Wisconsin Statutes are to the 2007-08 version unless otherwise noted.

supporting the assessment. In this case, the assessor testified before the board but did not provide the board with physical evidence.

¶6 The Liskas have not cited to any cases or developed an argument about what the assessor must present to the board, other than to say the assessor's argument cannot just be oral. There is, however, nothing in the statute that requires the assessor to present physical evidence to the board. The statute requires that the assessor provide the board with "specific information." The statute does not require the assessor to provide the board with a specific type or quantity of evidence, just specific information. The assessor provided the board with specific information about the properties he used for comparables through his testimony. Since the assessor provided the statutorily required information, his valuation is entitled to the presumption of correctness.

¶7 The Liskas also argue that the information the assessor provided to the board by the assessor was insufficient. As we have just explained, however, the Liskas have not explained what WIS. STAT. § 70.47(8)(h) requires an assessor to present to the board to support his or her valuation to obtain the presumption of correctness. The Liskas argue only that the evidence cannot just be oral, and we have rejected that argument. The Liskas's arguments attacking specific parts of the assessor's evidence mean little without an explanation of what the statute requires the assessor to actually present to the board. Since the Liskas have not presented a developed argument on the statute's requirements, we conclude that the Liskas did not rebut the presumption of correctness.

¶8 The Liskas next argue that the board should have relied on the evidence the Liskas presented. The board, however, was entitled to reject the evidence it found unpersuasive. We will not disturb those findings absent a

showing that the board acted in bad faith or exceeded its jurisdiction. *See Brighton Square*, 178 Wis. 2d at 582.

¶9 The Liskas's final argument is that the board needed to explain its reasons for its decision. Once again, the Liskas have not cited any case law to support the proposition that the board needs to provide a specific level of explanation. The cases on which the Liskas rely do not discuss the level of explanation the board must give. *See State ex rel. N/S Assocs. v. Board of Review of the Village of Greendale*, 164 Wis. 2d 31, 62-63, 473 N.W.2d 554 (Ct. App. 1991), and *Rosen v. City of Milwaukee*, 72 Wis. 2d 653, 662, 242 N.W.2d 681 (1976). In the absence of a developed argument, we conclude that the board acted properly.

¶10 For the reasons stated, we affirm the judgment of the circuit court.

By the Court.—Judgment affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5.

