

# Property Tax Valuation: Wisconsin Appellate Court Addresses Impact of Environmental Contamination



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A Wisconsin Court of Appeals (“Court”) addressed in an August 27th opinion an issue involving the impact of environmental contamination on the tax valuation of a parcel of real property. See *State of Wisconsin ex rel Ronald L. Collison*, Appeal No. 2018AP669.

A Milwaukee real property owner argued that the fair market value for tax valuation purposes should be zero because of environmental contamination.

Ronald L. Collison (“Collison”) filed a *pro se* appeal of a Circuit Court Order affirming a City of Milwaukee Board of Review (“Board”) decision addressing the tax valuation of his real property for 2016. The Board had valued the property at \$31,800.00.

Collison argued that the assessment was improper. This was based on his belief that both the City of Milwaukee Environmental Contamination Standards ECS (“CMECS”) and the Wisconsin Property Assessment Manual conflict with WIS. STATE§ 70.32 (2017-2018).

The Court on appeal addressed the following issues:

- (1) Whether the Board acted within its jurisdiction;
- (2) Whether the Board acted according to law;
- (3) Whether the Board’s actions were arbitrary, oppressive or unreasonable;
- (4) Whether the evidence was sufficient to allow the Board to reasonably make its decision.

Collison argued in favor of a zero valuation stating:

. . . no one wants to buy his property due to the fact that it contains environmental pollution, the extent of which is unknown.

The Court cited the Wisconsin Property Assessment Manual requirement that the best information that can be practicably obtained (which can ordinarily be obtained therefore at private sale) should be utilized. The Manual also notes that market value can be derived by using the cost, income or sales comparison approach.

The Assessor utilized the income approach to determine the property’s fair market value. This approach was chosen because of the absence of recent sales of the property or similar properties. Further, income had been generated by the property through its use as a parking lot.

The Assessor agreed that the property may have environmental contamination. However, despite this awareness noted:

. . . he had no information about the extent of the problem or the possible cleanup costs, and therefore could not conclude the property was worthless.

Further, the Assessor argued that the property could generate income as a parking lot regardless of whether it was contaminated.

The Court concluded that Collison had not shown why his evaluation was more appropriate or more accurate than the Assessor. It noted that the Assessor's evaluation is presumed to be correct.

Collison's argument regarding previous inability to sell the property was also addressed. This was deemed to not establish that it was worthless. A location that is described as "prime downtown Milwaukee area" was projected to potentially increase in value. The Court also cited Collison's failure to provide evidence about the extent of the contamination or cost to remediate.

The argument that CMECS allowed Milwaukee to ignore a Wisconsin statute was also rejected. The City had taken the position that a real property owner must obtain a phase two environmental assessment to support a reduction in valuation. This argument was dismissed because the Board agreed the property was contaminated even though Collison had not completed a phase two assessment.

The argument that the CMECS conflicts with the relevant Wisconsin statutes because of its allowance for properties being valued using the income approach was rejected. The basis for such conclusion was the fact that the Assessor did consider the possible contamination.

Finally, the Court held it was permissible to use an income approach. Because of the absence of information about the extent of possible environmental contamination or cost remedy or cost to remedy, this approach was suitable.

A copy of the opinion can be downloaded [here](#).