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**DISTRICT II**

April 29, 2026

To:

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Clerk of Circuit Court  
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You are hereby notified that the Court has entered the following opinion and order:

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2025AP1369-FT

Susan B. Major v. Town of Delavan (L.C. #2024CV814)

Before Neubauer, P.J., Gundrum, and Grogan, JJ.

**Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).**

Susan B. Major, Trustee of the Susan Major Trust, and John Major and Susan Major, Co-Trustees of the Major Family Trust (collectively, "Major"), appeal a circuit court order affirming the Town of Delavan Board of Review's assessment of their property. Major argues that the Board improperly relied on unsupported testimony to conclude that certain parcels already reflected 25% and 50% reductions in value before removing those reductions and applying a uniform 30% reduction based on conservation easements. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary

disposition. *See* WIS. STAT. RULE 809.21 (2023-24).<sup>1</sup> Because the Board’s assessment determination is not supported by substantial evidence, we reverse the appealed order and direct that Major’s assessment be remanded to the Board for further proceedings consistent with this opinion.

Major owns three parcels of property subject to conservation easements that restrict the property’s use and development. For tax year 2024, the Town of Delavan notified Major of its proposed assessment of Major’s property. Major filed an objection challenging the assessed value as too high because the property “is encumbered by a series of conservation easements which severely restrict its use and development.” Major contends the fair market value is substantially less than any comparable property.

A hearing on the matter was held before the Town of Delavan Board of Review. Major offered expert testimony from a certified appraiser who testified that, due to the conservation easements, a 40% reduction in the property’s assessed value was warranted.

The Town’s assessor testified that two of the parcels already reflected “historic reductions” in assessed values of 25% and 50%. He acknowledged “[t]here’s no note of [the historic reductions] currently. So I am assuming from the other assessor, historically.” He then reiterated:

Overall I have no historical note in terms of the negative influence. So if this goes back all the way to the ‘90s, I have to use best available information legally as an assessor and assume that was most likely due to the fact that [the conservation easements were] already taken into account.

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2023-24 version.

Thereafter, the Board Chairperson clarified with the assessor:

[CHAIRPERSON]: I did not hear him say for certain that the minus 25, that the negative, is related to the covenants.

Did you actually state that you're sure that's why that is the case?

[ASSESSOR]: I have no notes.

[CHAIRPERSON]: See, that's what I'm saying. We have no record of why the minus 25 is in there. We don't know.

[ASSESSOR]: Correct.

[CHAIRPERSON]: We can't explain it. We don't have the record. I didn't pick up that he said it had anything to do with the covenants like you just said. We just don't know.

After testimony from the assessor and the appraiser, the Chairperson stated:

I just — we don't have information that says either in here that 40 percent is the magic number, that's what we're saying. Do we know it's 25 or 30? Because we don't know why the negative is on there. And we have no comparable that says 40 percent due to a covenant. None of the comparables have anything to do with a covenant. I don't know it. So we don't know these numbers. It's all we're saying.

Ultimately, the Board removed the purported historic 25% and 50% reductions from the assessed values of each of the two affected parcels, thereby increasing the baseline value of those properties. The Board then applied a uniform 30% reduction across all parcels to account for the conservation easements. The circuit court affirmed the Board's decision. Major appeals.

On certiorari review, we review the decision of the Board, not that of the circuit court. *State ex rel. SKBF Enters. v. Town of Baileys Harbor*, 97 Wis. 2d 759, 295 N.W.2d 834 (Ct. App. 1980). Certiorari review is limited to whether the Board kept within its jurisdiction, acted according to law, acted reasonably, and whether its decision is supported by substantial evidence. “Substantial evidence is evidence that is relevant, credible, probative, and of a quantum upon

which a reasonable fact finder could base a conclusion.” *State ex rel. Nudo Holdings, LLC v. Board of Rev. for City of Kenosha*, 2020 WI App 78, ¶25, 395 Wis. 2d 261, 952 N.W.2d 816, *aff’d*, 2022 WI 17, 401 Wis. 2d 27, 972 N.W.2d 544 (citation omitted). It is “less than a preponderance of the evidence, but ‘more than a mere scintilla of evidence,’” and it must be more than “conjecture and speculation.” *AllEnergy Corp. v. Trempealeau Cnty. Env’t & Land Use Comm.*, 2017 WI 52, ¶76, 375 Wis. 2d 329, 895 N.W.2d 368 (citations omitted). Although an assessor’s valuation is presumed correct and the taxpayer bears the burden of showing error, the assessor “shall 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.” See WIS. STAT. § 70.47(8)(h) and (i); See *Sausen v. Town of Black Creek Bd. of Rev.*, 2014 WI 9, ¶27, 352 Wis. 2d 576, 843 N.W.2d 39.

The dispositive question is whether substantial evidence in the record supports the Board’s determination that two of the three parcels at issue already reflected historic reductions of 25% and 50% due to the conservation covenants. It does not.

Before the Board was an assessor’s testimony that he assumed historic reductions were reflected in prior assessment records and that he did not know when these assumed reductions were applied or why they were applied, that is, whether they were done based on the conservation easements or some other factor. In the absence of an explanation of what the reductions represented or any documentation supporting their existence, the assessor’s testimony amounts to an unsubstantiated assertion that prior records reflected reductions, though of unknown origin and purpose.

Evidence of this nature does not rise above “conjecture and speculation” and therefore does not satisfy the substantial evidence standard. *See AllEnergy Corp.*, 375 Wis. 2d 329, ¶76. Indeed, the Board Chairperson, acknowledged that “we don’t know why the negative is on there.” Yet and still, the Board plainly relied on the assessor’s conclusion, based on only his assumption, when it made its decision to remove reductions of 25% and 50%, thereby increasing the baseline value of the two parcels, before applying a 30% reduction across all three parcels. Accordingly, the Board’s decision is not supported by substantial evidence.

Because we conclude that the Board’s decision fails under the substantial-evidence prong of certiorari review relating to the reductions, and the record indicates that the Board’s consideration regarding an appropriate reduction for the conservation covenants was tied to the reductions, we decline to address the parties’ arguments regarding an appropriate decrease in value for the conservation covenants.

For the reasons discussed above, we reverse the appealed order and remand to the circuit court with directions for further remand to the Town of Delavan’s Board of Review to conduct further proceedings consistent with this opinion regarding the 2024 assessment of Major’s property. *See* WIS. STAT. § 70.47(13).

Based on the foregoing,

IT IS ORDERED that the order of the circuit court is summarily reversed pursuant to WIS. STAT. RULE 809.21, and the cause is remanded with directions.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

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*Samuel A. Christensen*  
*Clerk of Court of Appeals*