

**COURT OF APPEALS
DECISION
DATED AND FILED**

November 13, 2001

Cornelia G. Clark
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.

No. 00-3523

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

LAWRENCE PIECZYNSKI,

PLAINTIFF-APPELLANT,

V.

TOWN OF BIRCHWOOD BOARD OF REVIEW,

DEFENDANT-RESPONDENT.

APPEAL from a judgment of the circuit court for Washburn County:
EUGENE D. HARRINGTON, Judge. *Affirmed.*

Before Cane, C.J., Peterson and Roggensack, JJ.

¶1 PER CURIAM. Lawrence Pieczynski appeals a judgment upholding his 1998 property tax assessment. The trial court initially granted Pieczynski's request for reassessment, resulting in a \$7,400 reduction. Pieczynski now challenges the second assessment, arguing that: (1) the board of review failed to comply with statutory requirements when it rejected his challenge to the second

assessment; (2) the assessor impermissibly subdivided Pieczynski's lakefront property and did not appropriately account for "depth factors" when he calculated the value based on front footage; and (3) the assessor's failure to adjust the assessments of the comparable parcels resulted in Pieczynski paying a disproportionate share of the town's taxes, a violation of the uniformity clause, WIS. CONST. art. VIII, § 1. We reject these arguments and affirm the judgment.

¶2 The assessor calculated the value of Pieczynski's 3.52 acre property by determining the value of three acres of shorefront property and adding the value of .52 acres of non-lakefront property. The assessor created a sliding scale of value per front foot according to the steepness of the slope and the swampy or boggy conditions at the waterfront. He determined that Pieczynski had 200 feet of frontage valued at \$100 per foot, seventy-eight feet at \$60 per foot, and forty-three feet at \$20 per foot. Because the minimum lot size was three acres, he assumed the depth of the lot to be whatever distance was necessary to create a three acre parcel, and valued the remaining .52 acres at \$1,000 per acre.

¶3 The board of review was not required to hold an additional "open book" session or allow four hours for a hearing as would be required if this were the initial challenge to an assessment. The procedural requirements set out in WIS. STAT. § 70.45 (1999-2000)¹ are designed to give residents an opportunity to review their own tax assessments and compare them with those of their neighbors. That procedure was followed before Pieczynski's initial challenge to the assessment. The present assessment resulted from a court order to reassess

¹ All references to the Wisconsin Statutes are to the 1999-2000 version unless otherwise noted.

Pieczynski's property. The board was not required to follow the procedures for review of the initial assessment at this stage. Pieczynski relies on WIS. STAT. § 75.54(1) to support his argument that the board must follow all of the procedures on reassessment that apply to the initial assessment. That statute only applies when the assessment of "all of the property in any taxation district" is challenged.

¶4 The assessor did not impermissibly subdivide Pieczynski's property and his method of calculation appropriately accounts for the "depth factor." The assessor's recognition that the lakefront property is more valuable than the area away from the lake does not constitute a "subdivision" of the land. The assessor recognized that the three acres closest to the lake were more valuable than the .52 acre backlot. The depth of each front foot is the distance necessary to create a minimum lot size of three acres. That depth would vary on each parcel depending on the number of feet of lake frontage. The assessor's methodology accounts for variations in topography and quality of lake frontage as well as the lots' unusual shapes and the value of the backlot. The assessor properly accounted for the depth factor by separately valuing property beyond the three acre lakefront portion.

¶5 Finally, Pieczynski has not established any violation of the uniformity clause. The assessor reviewed the value of Pieczynski's neighboring properties to determine his formula. He was not required to adjust the official assessment on the comparable properties. The neighbors' properties were not ordered to be reassessed. Pieczynski focuses on one of his neighbors' properties that was assessed at \$35,800 when the second assessment indicated its value was \$49,240. From this, Pieczynski calculates that his neighbor was assessed at only 67% of the property's value and, because Pieczynski was assessed at 100%, his assessment violates the uniformity clause. Pieczynski fails to recognize that several other neighboring properties were found to be worth less than their

assessed value. The assessor's method for determining the value per front foot depends on averages calculated from the neighboring properties. Pointing out one discrepancy that shows undervaluation does not establish that Pieczynski is paying a disproportionate share of the town's tax burden.

By the Court.—Judgment affirmed.

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

