

State of Wisconsin

Supreme Court

Warren Slocum

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New Richmond, WI 54017

715-248-3150

Petitioner, Petitioner

FILED
SEP 19 2016
CLERK OF SUPREME COURT
OF WISCONSIN

Appendix of Petition to Review

Vs.

WI Department of Revenue

2135 Rimrock Road

Madison, WI 53713

608-266-2772

2015 AP 2473

Respondent, Respondent

State of Wisconsin

Supreme Court

Warren Slocum

Petitioner, Petitioner, Plaintiff

Appendix of Petition to Review

Vs.

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Respondent, Respondent, Defendant

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Table of contents:

- 1) The Decision of the Court of Appeals
- 2) Decision of the circuit court
- 3) Other portions of the record necessary for an understanding of the petition (there are none)
- 4) Unpublished opinions cited under s. 809.23 (3) (a) or (b) (there are none)

**COURT OF APPEALS
DECISION
DATED AND FILED**

August 18, 2016

Diane M. Fremgen
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. 2015AP2473

Cir. Ct. No. 2013CV2666

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

WARREN SLOCUM,

PETITIONER-APPELLANT,

V.

WISCONSIN DEPARTMENT OF REVENUE,

RESPONDENT-RESPONDENT.

APPEAL from an order of the circuit court for Dane County:
RHONDA L. LANFORD, Judge. *Affirmed.*

Before Kloppenburg, P.J., Lundsten, and Blanchard, JJ.

¶1 PER CURIAM. Warren Slocum, pro se, appeals an order of the circuit court affirming, on certiorari review, a Wisconsin Department of Revenue decision denying a petition that he advanced under WIS. STAT. § 70.75(1)(a)1. (2013-14), requesting that the Department require the Town of Star Prairie to

No. 2015AP2473

reassess properties for the year 2012.¹ Slocum challenges the Department's conclusion that the town's 2012 property tax assessment is "in substantial compliance with the law," which resulted in the Department's decision to deny the petition for reassessment. The circuit court upheld the Department. We affirm the Department's decision for the following reasons.

BACKGROUND

¶2 In early 2013, Slocum submitted a petition to the Department, pursuant to WIS. STAT. § 70.75(1)(a)1., signed by the owners of over 5% of the assessed value in the Town of Star Prairie. The Department conducted a public hearing on Slocum's petition, as required by statute, at which Slocum was the only witness. See § 70.75(1)(a)5. Slocum made five allegations regarding the 2012 Star Prairie property assessments: (1) the assessor failed to use all available arm's length sales; (2) vacant land parcels in residential subdivisions were assessed inequitably; (3) properties were classified incorrectly, including a horse-boarding operation incorrectly classified as "agricultural," and some swamp and waste

¹ WISCONSIN STAT. § 70.75(1)(a)1. provides in pertinent part as follows:

The owners of taxable property in any taxation district ... whose property has an aggregate assessed valuation of not less than 5% of the assessed valuation of all of the property in the district according to the assessment sought to be corrected, may submit to the department of revenue a written petition concerning the assessed valuation of their property.... [I]f the department finds that the assessment of property in the taxation district is not in substantial compliance with the law and that the interest of the public will be promoted by a reassessment, the department may order a reassessment of all or of any part of the taxable property in the district to be made by one or more persons appointed for that purpose by the department.

All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

No. 2015AP2473

properties being valued as "forest"; (4) the assessor used a set per-acre price for undeveloped and forest land, which had the result of overvaluing some land and undervaluing other land; and (5) the assessor lacked enough staff to properly conduct the work required.

¶3 In addition to receiving the information at the hearing, the Department conducted an investigation of the town's property valuations, which included reviews of assessment equity and assessment practices. The Department produced a report detailing the findings of the investigation. The report set forth the applicable law under WIS. STAT. § 70.75, discussed the requirements necessary for the Department to order a reassessment, and described the model that the Department used to determine whether Star Prairie's assessments met these standards and thus were "in substantial compliance with the law" pursuant to § 70.75(1).

¶4 The Department generally uses a scale of 100 points to measure assessment equity and assessment practices, with a score below 70 points establishing that assessment is not in substantial compliance with the law. Following the investigation here, the Department awarded Star Prairie 58.3 points out of a possible 60 for assessment equity, and 35.75² points out of a possible 40 for assessment practices. The Department determined that the total score of 93.8 points out of the possible 100 meant that Star Prairie was in substantial compliance with the law.

² We observe that the total points awarded in the assessment practices category actually equal 35.5 and not 35.75. This minor mathematical error in the report does not change the total number of 93.8 points, nor does it matter to our analysis.

No. 2015AP2473

¶5 The Department denied the petition for reassessment based on its conclusion that Star Prairie was in substantial compliance with the law. Although it was not required to do so under the plain terms of WIS. STAT. § 70.75, the Department decided to address the question of whether the public interest would be served by a reassessment based on Slocum's allegations, and concluded that reassessment would not serve the public interest. While we do not discern in Slocum's appellate briefing a clear objection to any aspect of the Department's public interest inquiry, we summarize it for the sake of completeness.

¶6 In its discussion of the public interest, the Department addressed the first four of Slocum's five allegations, excluding discussion of his allegation that the assessor lacked adequate staff to conduct the 2012 assessments.

¶7 The Department rejected on the merits Slocum's first allegation that the assessor failed to use all available arm's length sales, concluding that the assessor developed assessment "values from arm's length land sales that sold within the Town." In contrast, the Department concluded that each of Slocum's three remaining allegations had at least some merit, finding as follows regarding the 2012 assessments: (1) the assessor valued vacant residential lots in subdivisions inconsistently; (2) the assessor incorrectly classified some properties; and (3) the assessor incorrectly categorized water frontage and swamp land, leading to overvaluation.

¶8 With respect to these three areas, the Department addressed the specific concerns expressed in the petition by exercising its supervisory authority under WIS. STAT. § 73.03(1). The Department used that authority to direct the assessor in the following ways for the 2013 assessment. Regarding property classification, the Department directed the assessor to review agricultural

No. 2015AP2473

classifications, to classify horse-boarding and commercial horse riding properties as commercial, and to review the number of acres classified as "other." Regarding property valuation, the Department directed the assessor to review and adjust values of swamp and waste acres that were improperly classified as undeveloped, to review the value for acres with water frontage, and to review and correct the value of subdivision lots that were incorrectly valued based on development costs.

¶9 Slocum sought judicial review by the circuit court, challenging the Department's decision to deny the petition for reassessment. The court upheld the Department's decision and subsequently denied Slocum's motion for reconsideration. Slocum appeals.

DISCUSSION

¶10 Slocum's briefing is frequently incoherent and is highly disjointed throughout. His arguments are largely unsupported by pertinent legal authority or pertinent citations to the record. Despite our best efforts, and taking into account Slocum's pro se status, we discern no developed legal argument. See *State ex rel. Harris v. Smith*, 220 Wis. 2d 158, 164-65, 582 N.W.2d 131 (Ct. App. 1998) (a court's obligation to a pro se litigant "does not extend to creating an issue and making an argument for the litigant."); see also *State v. Pettit*, 171 Wis. 2d 627, 647, 492 N.W.2d 633 (Ct. App. 1992) ("We cannot serve as both advocate and judge."). None of the references and assertions Slocum makes suggest to us a basis under applicable standards to conclude that the Department's decision to deny the petition for reassessment must be reversed. Slocum essentially fails to address in a coherent manner the substantial evidence in the record that appears to reflect extensive investigation and to support the Department's challenged decision, consistent with the terms of WIS. STAT. § 70.75. For these reasons, we

No. 2015AP2473

reject Slocum's appeal and accordingly uphold the Department's decision. *See M.C.I., Inc. v. Elbin*, 146 Wis. 2d 239, 244-45, 430 N.W.2d 366 (Ct. App. 1988) (This court may decline to consider arguments that are unexplained, undeveloped, or unsupported by citation to authority.).

¶11 Although we have explained that we reject all of Slocum's arguments as undeveloped, we choose to address a few specific deficiencies in arguments Slocum seemingly makes and explain why it is evident that, even if we attempted to reach the merits of such arguments, the result would be the same.

¶12 We review the Department's decision and not that of the circuit court. *Walag v. DOA*, 2001 WI App 217, ¶5, 247 Wis. 2d 850, 634 N.W.2d 906. Although Slocum gives no indication that he appreciates the fact, certiorari review is limited to the following questions: (1) whether the agency kept within its jurisdiction; (2) whether the agency acted according to law; (3) whether the agency's actions were arbitrary, oppressive, or unreasonable so as to represent its will and not its judgment; and (4) whether the evidence was such that the agency might reasonably make the determination in question. *See Ottman v. Town of Primrose*, 2011 WI 18, ¶35, 332 Wis. 2d 3, 796 N.W.2d 411. Slocum fails to take into account that we grant the Department's decision a presumption of correctness, that Slocum "bears the burden to overcome the presumption of correctness," and that we may not substitute our view of the evidence for that of the Department. *See id.*, ¶¶50-53. To cite only one of many examples, Slocum asserts that the Department took unspecified "actions" in connection with its response to the petition "that could have been handled much more professionally," suggesting the incorrect view that the courts have general authority on certiorari review to grade or rate the "professionalism" of an agency.

No. 2015AP2473

¶13 As the statutory language quoted above makes clear, the Department “may order a reassessment” if it makes two determinations: that the district is not in substantial compliance with the law and that it would be in the public interest to order a reassessment. WIS. STAT. § 70.75(1)(a)1. Because the decision whether to order a reassessment is left to the discretion of the Department (“may order”), we will not upset the decision not to order a reassessment if the Department “applied the correct legal standards and reached a decision that is not arbitrary, oppressive, or unreasonable.” See *Ottman*, 332 Wis. 2d 3, ¶52.

¶14 Slocum asserts in a confusing manner that the Department “fabricat[ed] rules that conflict with state laws, while violating the other three (3) criteria of lawful actions—not arbitrary or bad faith actions—that reasonably considered the evidence before it.” However, he completely fails to support these assertions of fabrication, arbitrariness, and bad faith.

¶15 Slocum asserts that the Department “did not adhere to state law when denying the taxpayers’ petition for full or partial reassessment of the district.” Slocum offers two general examples that he contends support this assertion. First, Slocum takes issue with the Department’s use of certain statistical calculations, apparently arguing that the Department violated state law in some manner by using sample groups formed by the “selective inclusion of sales to maintain an appearance of overall group uniformity.” In purported support, Slocum presents a series of definitions and statements related to such concepts as “uniformity” and “dispersion.” Slocum does not develop any argument as to how this information could be used to support his position that we should reverse the Department’s decision or require the Department to take a different statistical approach, particularly in light of our limited and deferential scope of review.

No. 2015AP2473

¶16 Slocum asserts that the Department violated state law by relying on the assessor's use of sales that were either improperly designated, or not designated, as "arm's length" sales. As with his challenge to the sample groups, however, Slocum offers nothing but his opinion that Slocum himself "used better procedures for Arm's Length designations" than did the Department. Whatever Slocum intends to argue regarding statistical calculations and arm's length sales is unexplained and undeveloped.

¶17 Turning to Slocum's assertion that the Department's decision was not reasonable in light of the evidence before it, Slocum provides no basis on which we could conclude that reversal on this ground is appropriate. Instead, Slocum refers to an unexplained alleged "disconnect" between assessment and appraisal values, and asserts that "some taxpayers have found the assessors [] difficult to deal with," with no indication as to how these assertions are supported by the record and why they should matter to our analysis under any applicable legal standard and the correct standard of review.

CONCLUSION

¶18 Slocum fails to develop an argument that the challenged decision to deny the petition for a reassessment is not based on substantial evidence, representing a reasonable interpretation of the relevant evidence under applicable legal standards. Accordingly, we affirm.

By the Court.—Order affirmed.

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

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH 16

DANE COUNTY

WARREN SLOCUM,

Petitioner,

v.

WISCONSIN DEPARTMENT
OF REVENUE,

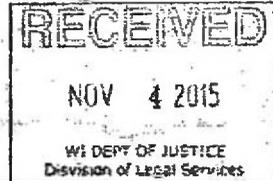
Respondent.

FILED

OCT 29 2015

Case No.: 13-CV-2666

DANE COUNTY CIRCUIT COURT

**DECISION AND ORDER**

This is a certiorari review of a July 3, 2013, Decision of the Wisconsin Department of Revenue (DOR) in response to a sec. 70.75, Stats., petition filed for reassessment of Star Prairie Township, Wisconsin (hereinafter Final Decision). Petitioner Warren Slocum (Slocum) seeks review of the DOR's Final Decision finding the 2012 property tax assessment in substantial compliance with the law and not ordering a reassessment of the township's properties. For the reasons stated below, the DOR's Final Decision is AFFIRMED.

I. BACKGROUND

On February 7, 2013, Slocum filed a written compliant on behalf of himself and several other Star Prairie, Wisconsin, residents pursuant to sec. 70.75, Stats. (STAR1000, 1897-1913.)¹ Slocum submitted sixteen pages of taxpayer signatures whose property had an aggregate assessed value of more than 5% of the total assessed value of all of the property in the district in which they sought reassessment. (STAR1897-1913.) The signatures and valuation amount

¹ The record produced by the Wisconsin Department of Revenue is Bates stamped. All references to the record will be to the Bates stamp, rather than the record in general, for ease of reference.

satisfied the requirements of sec. 70.75(1)(a)1., Stats. Pursuant to sec. 70.75(1)(a)5., Stats., the DOR held "a fact finding public hearing" at the Town of Star Prairie town hall on April 9, 2013. (STAR1012; *see also* Tr. Town Hall Meeting.) Tom Janssen of the Eau Claire Equalization office chaired the hearing. *Id.* The DOR held the meeting to "hear testimony regarding assessment concerns" in response to the petition for reassessment filed by Slocum and the Town's residents. *Id.*

At the hearing, Slocum testified on behalf of all 113 signers of the petition and spoke in support of the need for reassessment. *Id.* No one testified at the hearing in opposition to the need for a reassessment. *Id.* Additionally, following the meeting, Slocum "submitted a written explanation and documentation of perceived errors in the assessment to the Eau Claire District office within the allowable time frames after the hearing." *Id.* Slocum testified about the poor assessment practices of the Assessor and the DOR summarized those practices as follows:

1. The Assessor did not use all of the available arm's length sales in determining their assessments. As a result, some parcels are not assessed at their selling price and usable sales data is not properly applied in the valuation of properties that have not sold.
2. Vacant land parcels in many residential subdivisions are inequitably assessed in relation to other vacant lots in the subdivision as well as with similar lots in other subdivision.
3. The Assessor incorrectly classified properties, such as horse boarding facilities, swamp and waste properties, and forest properties. As a result, horse boarding facilities are receiving agricultural use values assessments and some swamp and waste properties are being overvalued due to being assessed as forest land.
4. The Assessor used a set per acre unit value for Class 5 (Undeveloped), 5M (Agricultural Forest) and 6 (Productive Forest) through the Town. As a result, less desirable properties are overvalued and more desirable properties are undervalued.
5. Appraisal Services, Inc. does not have a large enough staff to properly do the assessment work in the Town in addition to all of their other municipal contracts.

(STAR1012.)

Following the hearing, the DOR conducted a field investigation that included a study of assessment equity, assessment level, and basic assessment practices. (STAR1006.) After completing the investigation, the DOR produced a report based on its findings. (STAR1002-26.) In the section titled "requirements for ordering a reassessment," the report described the current state of the law and the public policy factors considered in deciding whether to order a reassessment. (STAR1007.) The report then described the elements that the DOR assessed in order to determine the quality of the township's assessment. (STAR1008.) The DOR stated that assessment performance is measured by evaluating the assessment equity and the assessment practices. *Id.* Assessment equity is an evaluation of uniformity between classes and uniformity within classes thereby assessing uniformity throughout the entire township. *Id.* In evaluating assessment practices, the DOR "measures how closely actual work procedures match industry standards, Wisconsin Statutes, and the Wisconsin Property Assessment Manual." *Id.*

After describing what elements make up the entire review of Star Prairie's assessment, the DOR assigned a point value to each element. (STAR1009.) The assessment equity portion of the evaluation receives 60 points with 15 points awarded to uniformity between classes and 45 points awarded to uniformity within classes. *Id.* The assessment practices portion of the evaluation receives 40 points with property data and record cards awarded 10 points, classification awarded 5.5 points, valuation awarded 17.5 points, and administration and public relations awarded 7 points. *Id.* Under the model utilized by the DOR, assessments are not in compliance with the law if the score is below 70 points. (STAR1011.) However, the DOR does not base its decision solely on the raw score. *Id.* It considers the complaints expressed by the petition signers as well as public interest concerns. *Id.*

The DOR awarded Star Prairie 58.3 points for assessment equity and 35.75 points for assessment practices. *Id.* Star Prairie received 93.8 points overall which was above the 70 point threshold to be in compliance with the law. *Id.* The report compiled by the DOR further described each category, the findings made in each category, the point value each category received, addressed the specific issues raised by the petitioners, and made recommendations for actions moving forward. (STAR1012-14.)

In the uniformity between classes section, the DOR found the Town of Star Prairie to have two major classes of property. (STAR1012.) The residential class represented 87.73% of the township, while the combined class of undeveloped, agricultural forest, forest, and "other" represented 6.42%. *Id.* The DOR found the spread of 3.16% between the two major classes to be well within the recommended acceptable range of less than 10%. *Id.* The township received 15 out of 15 points for this category. *Id.*

When assessing the uniformity within classes, the DOR analyzed 58 residential class properties and 27 "other" class properties. *Id.* Twenty-eight of the residential properties sold in 2010 or 2011 and 30 residential properties were randomly selected non-sale properties. *Id.* The DOR compared the current assessed values of each property with its own valuation of the properties to determine "equity within the residential class." *Id.* The analysis revealed "very good uniformity in the residential class." *Id.* The randomly selected 27 "other" class properties were assessed by the DOR and the property values were compared with the current assessment values. *Id.* The results indicated uniformity to not be as good as the residential class resulting in a point reduction. *Id.* The township received 43.3 out of 45 points in this category. *Id.*

In the assessment practices section, the DOR reviewed the property record cards, sales analysis, available maps, general record keeping, and interviewed the Assessor and Clerk. *Id.*

The DOR found that overall, the Assessor and municipality followed proper procedures. *Id.* The township received 35.5 out of 40 points in this category. *Id.*

The DOR then analyzed each of the five issues raised by Slocum at the hearing. (STAR1014-15.) To the claim that the Assessor did not use all available arm's length sales, the DOR found that "the assessor developed per acre land values from arm's length land sales that sold with the Town" and that the "majority of the land parcels were accurately assessed." (STAR1014.) To the claim of inaccurately assessing vacant land parcels, the DOR found the "Assessor [was] not valuing vacant residential lots consistently in subdivisions" and the "values of vacant lots [were] incorrectly based upon the cost of developing the lots." *Id.* To the claim that the Assessor was incorrectly classifying properties, the DOR found a number of inconsistencies between the various classes. (STAR1014-15.) The DOR described how the inconsistencies should be rectified and provided guidance for classification in the future. *Id.* To the claim that the Assessor was using a per acre unit value for multiple classes resulting in overvaluation and undervaluation, the DOR found the Assessor was incorrectly valuing water frontage and swamp land leading to overvaluation. (STAR1015.) To the claim that Appraisal Services did not have enough staff, the DOR found its scope was limited to analysis of the assessment process and results, not staffing. *Id.*

The DOR found the Town of Star Prairie had an overall assessment performance score of 93.8 out of 100 points. *Id.* The DOR stated "this [score] indicates that the assessments are in substantial compliance with the law. Ordering a reassessment of all property for 2012 or a revaluation of all property for 2013 to correct the specific problems found in the classification and valuation would not serve the public interest. Therefore, [the] DOR directs that the petition for reassessment be denied." *Id.* The DOR, through its general supervisory authority, did order

the Town of Star Prairie Assessor to review the property classification of several classes and several properties within the township. *Id.* Additionally, the DOR ordered the Assessor to review and adjust the value for several classes and "review and correct the values of subdivision lots that are incorrectly valued based upon the cost of development." *Id.* The remainder of the DOR report further described its assessments and quantified the assessments done in each category. (STAR1016-26.)

The report accompanied the Final Decision signed by the Secretary of Revenue. (STAR1001-02.) The Secretary found "excellent uniformity between the major classes of property," "good uniformity within classes of property," and "generally good assessment practices [of] the assessor." (STAR1000.) The Secretary concluded that the "2012 assessment was made in substantial compliance with the law" and "the interest of the public and of all the taxpayers of such district will not be promoted by a reassessment or special supervision." *Id.* The Secretary issued a supplementary order as well requiring general supervision by the DOR of the Star Prairie Assessor in accordance with the recommendation in the report described above. (STAR1001.) The Final Decision provided for appeal through "writ of certiorari within six months" of the date of the order, July 3, 2013. (STAR1000.) Slocum filed a petition for review on August 16, 2013.

II. APPLICABLE STATUTE

The specific Wisconsin statute surrounding the issues of this case, sec. 70.75, reads as follows:

(1) REASSESSMENTS, HOW MADE.

(a)

1. The owners of taxable property in any taxation district, other than an assessment district within the corporate limits of any 1st class city, whose property has an aggregate assessed valuation of not less than 5% of the assessed valuation of all of the property in

the district according to the assessment sought to be corrected, may submit to the department of revenue a written petition concerning the assessed valuation of their property. Subject to subd. 2. and sub. (1m), if the department finds that the assessment of property in the taxation district is not in substantial compliance with the law and that the interest of the public will be promoted by a reassessment, the department may order a reassessment of all or of any part of the taxable property in the district to be made by one or more persons appointed for that purpose by the department.

...

III. STANDARD OF REVIEW

Agency decisions are reviewable by common law writ of certiorari whenever there is no express statutory method of review. *State v. Goulette*, 65 Wis. 2d 207, 213-216, 222 N.W.2d 622 (1974); *Coleman v. Percy*, 96 Wis. 2d 578, 588, 292 N.W.2d 615 (1980). On certiorari, the court's review is limited to four issues, whether:

- (1) the agency kept within its jurisdiction;
- (2) it acted according to the law;
- (3) its action was arbitrary, oppressive, or unreasonable and represented its will and not its judgment; and
- (4) the evidence was such that it might reasonably make the order or determination in question.

Hanlon v. Town of Milton, 2000 WI 61, ¶ 23, 235 Wis. 2d 597, 612 N.W.2d 44.

The reviewing court is limited to the record created by the agency and does not take any additional evidence on the merits of the decision. *Ottman v. Town of Primrose*, 2011 WI 18, ¶ 35, 332 Wis. 2d 3, 796 N.W.2d 411. On certiorari review, the decision of the agency is entitled to a presumption of correctness and validity. *Herman v. Cnty. of Walworth*, 2005 WI App 185, ¶ 9, 286 Wis. 2d 449, 703 N.W.2d 720. The petitioner bears the burden to overcome this presumption. *Ottman*, 2011 WI 18, ¶ 50.

If the agency applied the proper legal standards and reached a decision that is not arbitrary, oppressive, or unreasonable, the court grants deference to the agency's discretionary decisions. *Von Arx v. Schwarz*, 185 Wis. 2d 645, 656, 517 N.W.2d 540 (Ct. App. 1994). Similarly, if the agency's conclusions of law are reasonable, the court will uphold the agency's decision. *Racine Harley-Davidson, Inc. v. State, Div. of Hearings & Appeals*, 2006 WI 86, ¶ 17, 292 Wis. 2d 549, 717 N.W.2d 184. The agency decision is unreasonable if it directly contravenes the statute or the federal or state constitution, if it is clearly contrary to the legislative intent, history, or purpose of the statute, or if it is without a rational basis. *Id.* Agency conclusions of law must rely upon findings of fact supported by substantial evidence in the record. *Von Arx*, 185 Wis. 2d at 656. The substantial evidence standard is satisfied when reasonable minds could arrive at the same conclusion as the agency when taking into account all the evidence in the record. *Wisconsin Prof'l Police Ass'n v. Pub. Serv. Comm'n of Wisconsin*, 205 Wis. 2d 60, 67, 555 N.W.2d 179 (Ct. App. 1996). Substantial evidence is evidence that is relevant, credible, probative, and of a quantum upon which a reasonable fact finder could base a conclusion. *Cornwell Pers. Associates, Ltd. v. LIRC*, 175 Wis. 2d 537, 544, 499 N.W.2d 705 (Ct. App. 1993).

IV. DISCUSSION

The DOR made three substantive findings of fact. The DOR found Star Prairie Township's assessment had excellent uniformity between the major classes and good uniformity within classes. Similarly, the DOR found the assessor and municipality generally had good assessment practices. The record must contain substantial evidence to support the findings of fact. The record produced to the court is 1,724 pages in length. The record contains the order and accompanying report, maps of the township parcels, land sale summaries, residential sale

summaries, residential cost analyses, "other" sale summaries, "other" cost analyses, public hearing documents, classification review documentation, and all correspondence about this petition sent and received by the DOR. After reviewing the evidence in the record, the DOR has adequately documented its actions in reviewing Slocum's petition. Moreover, reasonable minds could arrive at the same conclusions the DOR reached when taking into account all the evidence in the record. The DOR's selection, evaluation, and classification of parcels are adequately documented and sufficiently compared to the Town of Star Prairie assessments. Substantial evidence in the record exists to support the DOR's findings of fact. Accordingly, if the conclusions of law are reasonable, this Court will uphold the DOR's decision.

The DOR's decision would be unreasonable if it contravened sec. 70.75, Stats., or the federal or state constitutions; if it was contrary to legislative intent; or if it was without rational basis. The DOR made two conclusions of law. The DOR found the 2012 assessment was made in substantial compliance with the law and the interest of the public would not be promoted by a reassessment or special supervision. Slocum asserted many arguments in his brief that can be construed to attack the reasonableness of the DOR's conclusions of law. The majority of Slocum's arguments question the use of the statistical studies utilized by the DOR in their evaluation of the Town of Star Prairie's assessments.

Slocum asserts that each parcel within the Town of Star Prairie must be assessed within 10% above or below the market value for that property. *See* Pet'r's Br. 12-15. However, the statute states that "the assessed value of each *major class of property* ... [must be] within 10% of the full value." Wis. Stat. § 70.05(5)(d) (emphasis added). In order to evaluate whether Star Prairie's assessments were within those parameters, the DOR performed their own appraisals and compared its results to those assessed by the Star Prairie Assessor. The DOR found that Star

Prairie consisted of two major classes, residential (87.73%) and a combined "other" group of agriculture, undeveloped, agricultural forest, and other (6.42%). (STAR1017.) The DOR then performed its own appraisals on properties in the two classes.

In the residential class, the DOR randomly selected 58 properties. Twenty-eight of the properties were sold during the evaluation years and 30 were randomly selected non-sale properties. The DOR then conducted its own appraisals of each property and documented its findings. (See STAR1422-1752.) The DOR tabulated the results and found "very good uniformity in the residential class" as evidenced by a coefficient of dispersion of 9.36. (STAR1401.) The Wisconsin Property Assessment Manual states "a reasonable degree of uniformity corresponds to a coefficient of dispersion between 10% and 15%. A coefficient of dispersion less than 10% indicates good assessment uniformity." Wis. Prop. Assmt. Man. Ch. 14 at 49. Additionally, the DOR found the selected 58 properties to have a level of assessment of 106.45%, within the 10% variance allowed under the law. (STAR1013.)

In the "other" class, the DOR randomly selected 27 properties. Again, the DOR conducted its own appraisals for each property and documented its findings. (See STAR1762-1896.) The DOR's results indicated that uniformity in the "other" class was not as good as in the residential class as evidenced by a coefficient of dispersion of 15.69. (STAR1753.) However, the DOR did find an assessment ratio for the "other" class to be at 103.09%. This ratio was also within the 10% variance allowed under the law. (STAR1013.)

The DOR's use of statistical analysis complied with the Wisconsin Property Assessment Manual and was conducted in an appropriate and reasonable manner. The DOR used a random sampling to assess the valuation of properties within the Town of Star Prairie. While Slocum asserts the properties used were not randomly selected, Pet'r's Br. at 1, he has not presented any

evidence other than speculation to overcome the DOR's assertion of random selection in its report. Additionally, the dispersion analysis utilized by the DOR did not hide low- and high-value assessments. Each table of values for the two major classes indicate values that were both high and low, but when aggregated together, the DOR found the overall assessments complied with the law. The DOR's conclusion of law that the 2012 Star Prairie assessment complied with the law was reasonable because it did not contravene the statute and was rationally based on substantial evidence in the record.

The remaining claims made by Slocum about the DOR's review of the Star Prairie assessment fall under its second conclusion of law, reassessment or special supervision did not promote the public interest. Slocum argues that misuse of reject codes and misclassification of properties requires a reassessment. *See* Pet'r's Br. 15-17, 21-25, 32. Slocum raised these issues at the hearing conducted by the DOR prior to its investigation. The DOR specifically addressed five issues raised by Slocum in its report following the investigation. On the issue of reject codes, the DOR found the "majority of land parcels were accurately assessed." (STAR1014.) Slocum points to the rejection of bank, family, and foreclosure sales. However, the Wisconsin Property Assessment Manual describes that the assessor should reject these types of sales absent specific criteria. The DOR did not find that Slocum demonstrated those criteria existed and Slocum has not overcome his burden in proving the criteria to this court.

The DOR also addressed Slocum's claims about misclassification. The DOR did find that a horse boarding operation was misclassified. Additionally, the Assessor of Star Prairie was misclassifying land with and without water frontage and swamp/waste land. However, the DOR did not find the problem to be so pervasive as to warrant a reassessment or special supervision of the Town of Star Prairie. The DOR did maintain general supervision over the Assessor to assure

compliance with the corrective actions it ordered the Assessor to complete on the misclassified properties. (STAR1001.) Residential and commercial properties make up the majority of property in the Town of Star Prairie. All other classes combined account for 6.57% of the Star Prairie Township. (STAR1017.) The DOR found that *some* of the property within the 6.57% portion of Star Prairie Township was misclassified. Given such a small percentage of property misclassified, the DOR rationally found that a reassessment, for which the entire township must bear the cost, was not in the public interest.

The DOR found excellent uniformity between major classes as demonstrated by a 3.16% assessment ratio, well under the 10% statutory allotment. Additionally, uniformity within classes was "good" as shown by the respective coefficients of dispersion. The municipality and Assessor also demonstrated good assessment practices. Based on those finds, the DOR concluded the 2012 assessment was in substantial compliance with the law. In addition, a reassessment or special supervision was not in the public interest. The DOR determined that retaining general supervision was more appropriate. The DOR is entitled to a presumption of correctness and deference from this court. Substantial evidence in the record supports the DOR's findings of fact. Moreover, the conclusions of law do not contravene any statute, are consistent with statutory meaning, and are rationally based. Accordingly, the DOR did not act arbitrarily, unreasonably, or oppressively and its decision will not be overturned.

V. CONCLUSION AND ORDER

Substantial evidence in the record supports the DOR's Final Decision. Reasonable minds could arrive at the same conclusions reached by the DOR when taking into account all the evidence in the record. The evidence, exhibits, and testimony produced for, and by, the DOR were relevant, credible, probative, and of a quantum upon which a reasonable fact finder could

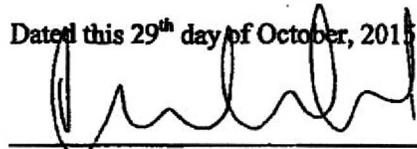
base a conclusion. The DOR relied upon substantial evidence to reach a reasonable interpretation of the issues brought before it. This Court will not overturn the Final Decision of the DOR.

For the reasons stated above, the July 3, 2013, Final Decision of the Wisconsin Department of Revenue is AFFIRMED.

This is a final decision for purposes of appeal.

BY THE COURT:

Dated this 29th day of October, 2015



Honorable Rhonda L. Lanford
Circuit Court Judge, Branch 16

cc: Attorney Brian Keenan
Mr. Warren Slocum