

# Appeal # 17 | PID: 010-4045-00030 | 914 S Lake Ave

Appeal Number: \_\_\_\_\_ ID: \_\_\_\_\_ Received by: \_\_\_\_\_  
(above is for City staff use only)

## RECORD OF APPEAL TO CITY OF DULUTH LOCAL BOARD OF APPEAL & EQUALIZATION

This form will be accepted as a written appeal by City Staff, and you will be given equal consideration by the board. This form must be received by the City of Duluth Finance Department by **2:00 PM on Tuesday, May 18, 2021**.

Parcel Code(s): \_\_\_\_\_ Property ID 010-4045-00030  
 Property Address (if applicable): 914 S Lake Ave  
 Name: Thomas C Gavin Daytime Phone: [REDACTED]  
 E-mail Address: [REDACTED]

**This is an appeal of the Estimated Market Value (and of being unfairly assessed relative to other properties).**

First, attached are the Stipulation Orders for my tax petitions concerning taxes payable in the years 2019 and 2020. It is particularly important to note the stipulations are based on a Rule 68 Offer **and my acceptance of such offer will not have precedential value**. I did not agree to this stipulated value. I agreed to the Rule 68 offer because of its potential punitive effects. A new petition for taxes payable in 2021 has been filed. The use of Rule 68 to squash and silence tax petitions is heavy-handed and just plain wrong.

According to the Minnesota Department of Revenue, assessors are required to use sales data between October 1, 2019 and September 30, 2020 to determine Market Value as of January 1, 2021.

During this period, there were no sales at South Pier Shores that would justify an increase in market value. And, importantly, while there were sales of other nearby properties, not one was adjusted to sales price or market value. Everyone of these nearby properties has a valuation less than its true market value.

S. Lake Avenue Address	20/21 Total EMV	21/22 Total EMV	Change	Purchase Date	Purchase Price
702	\$ 387,400	\$ 385,100	\$ (2,300)		
706	\$ 315,000	\$ 315,000	\$ -		
714	\$ 697,200	\$ 697,200	\$ -		
724	\$ 394,700	\$ 394,700	\$ -	Jul-20	\$ 435,000
726	\$ 364,400	\$ 364,400	\$ -		
728	\$ 483,000	\$ 483,000	\$ -		
740	\$ 660,200	\$ 660,200	\$ -		
802	\$ 253,100	\$ 253,100	\$ -	Jul-20	\$ 271,000
806	\$ 286,600	\$ 286,600	\$ -	Oct-20	\$ 295,000
816	\$ 310,300	\$ 310,300	\$ -		
828	\$ 929,600	\$ 929,600	\$ -		
838	\$ 266,600	\$ 266,600	\$ -		
840	\$ 593,500	\$ 593,500	\$ -		
902	\$ 293,900	\$ 296,700	\$ 2,800		
910	\$ 841,100	\$ 857,300	\$ 16,200		
912	\$ 892,800	\$ 909,000	\$ 16,200		
914	\$ 932,900	\$ 949,100	\$ 16,200		
916	\$ 894,000	\$ 910,200	\$ 16,200		
918	\$ 894,000	\$ 910,200	\$ 16,200		
920	\$ 932,100	\$ 948,300	\$ 16,200		
922	\$ 894,000	\$ 910,200	\$ 16,200		
924	\$ 956,800	\$ 973,000	\$ 16,200		
928	\$ 294,000	\$ 294,000	\$ -		
938	\$ 348,700	\$ 348,700	\$ -		
1004	\$ 394,600	\$ 396,300	\$ 1,700	Sep-19	\$ 420,000
1008	\$ 340,100	\$ 340,100	\$ -		
1014	\$ 333,800	\$ 333,800	\$ -		
1018	\$ 417,600	\$ 417,600	\$ -	Nov-17	\$ 515,000
1026	\$ 374,800	\$ 374,800	\$ -		
1032	\$ 260,500	\$ 260,500	\$ -		
1036	\$ 231,600	\$ 231,600	\$ -	Oct-19	\$ 258,000
1040	\$ 374,300	\$ 374,300	\$ -		
1108	\$ 345,000	\$ 345,000	\$ -		
1112	\$ 308,100	\$ 308,100	\$ -		
1116	\$ 339,800	\$ 339,800	\$ -		
1120	\$ 316,000	\$ 319,000	\$ 3,000		
1126	\$ 50,900	\$ 124,900	\$ 74,000	May-20	\$ 65,000
1136	\$ 352,400	\$ 352,400	\$ -	Jul-20	\$ 400,000
1140	\$ 233,300	\$ 233,300	\$ -		
1202	\$ 306,600	\$ 306,600	\$ -	Jun-20	\$ 410,000
1204	\$ 376,500	\$ 376,500	\$ -	Apr-20	\$ 395,000
1210	\$ 217,900	\$ 217,900	\$ -		

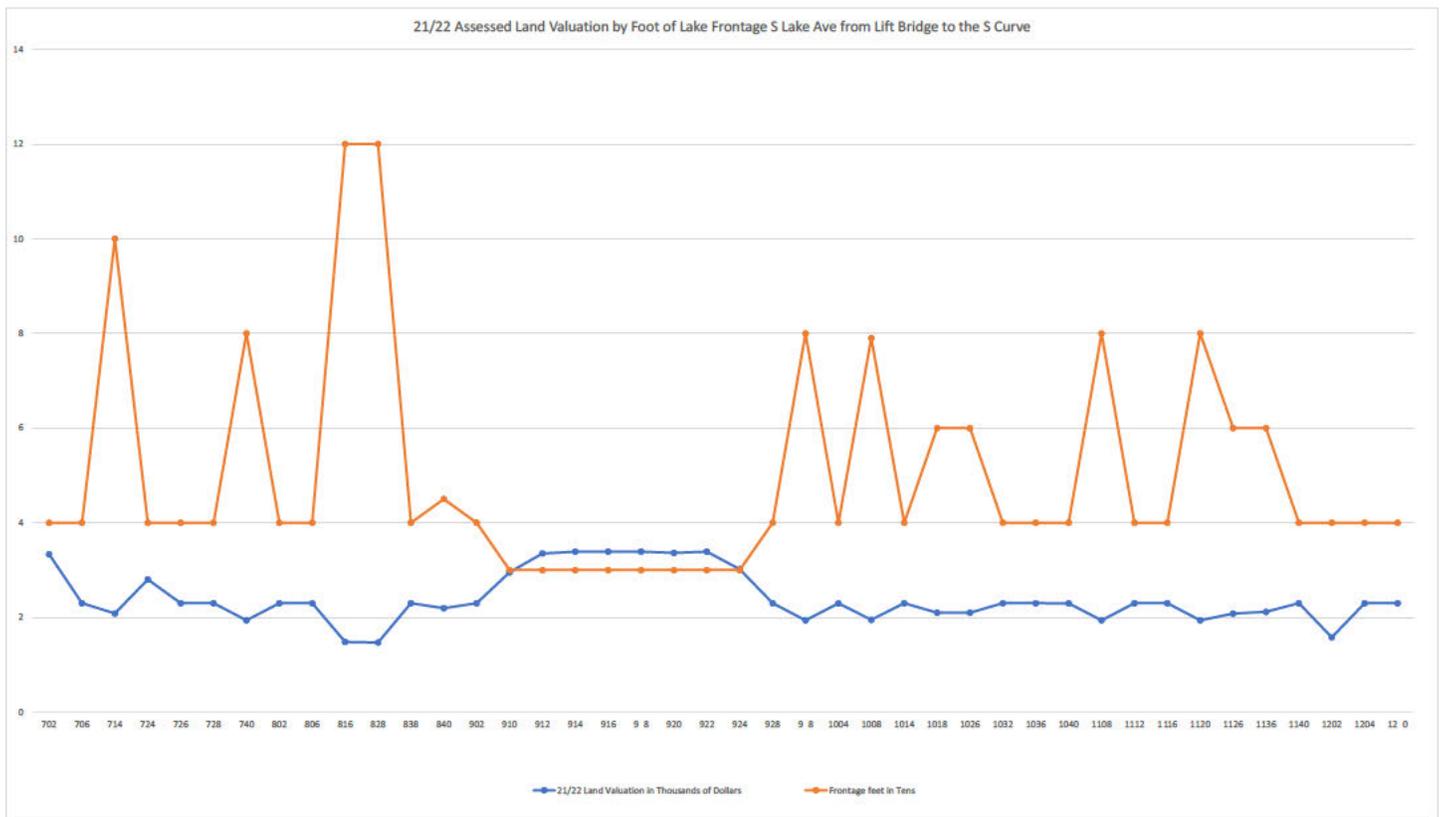
1126 is land only; one and one-half lots. While its value was increased, it is still not close to its market value and the assessor apparently knows this and expressed this to the owner.

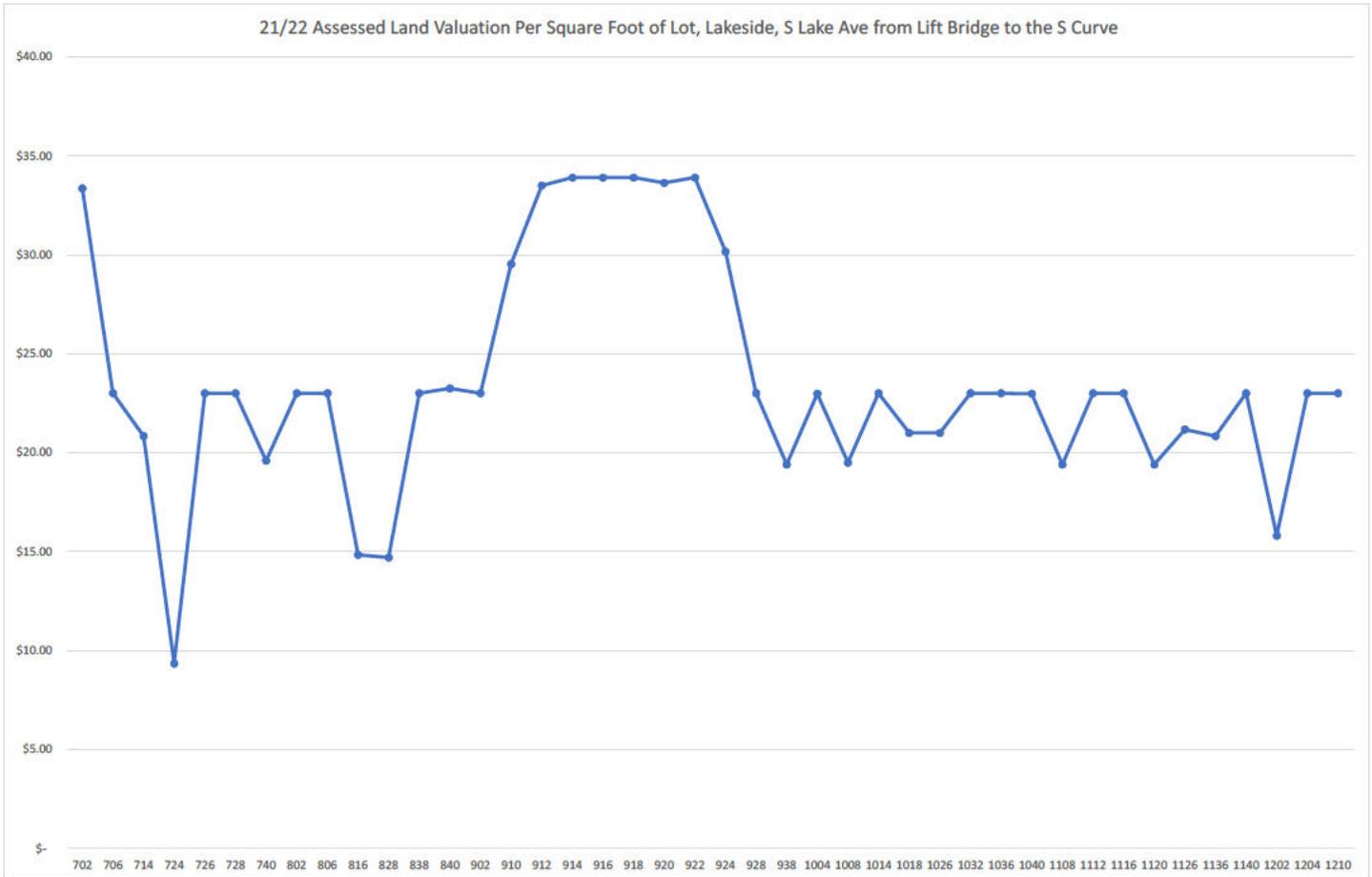
Given the treatment and assessments of neighboring properties and the lack of sales at South Pier Shores, there is no justification for the increase in Market Value on January 1, 2021.

And with respect to sales at South Pier Shores, the assessor provided materially misleading data to the board last year. The assessor relied solely on the sale of one particularly nice unit to set the assessment level when three other units sold for materially less. Four of eight units, half the complex, sold within a sixteen-month period. Three sold for around \$800,000 and the one for \$950,000. The assessor highlighted the net sale at \$950,000 but failed to deduct personal property components for the other three units even though it was a known fact. 912 and 914 S Lake were sold fully furnished. 924 S Lake sold with a genuinely nice appliance package. 914 declared personal property in the Certificate of Value as counseled and directed by Bill Burns at Hanft Fried, but 912 and 924 were never advised or counseled to declare personal property components. Still, 912 S Lake did in fact notify the assessor of the fact before last year's review and was shut down.

And at last year's review, remember that Frank Carver even brought up the issue of personal property being included in some sales but not others at Beacon Pointe properties. You cannot deal with an issue like this at one property and not at another. Also, at South Pier Shores, the three properties that had their personal property components ignored happen to be non-residents. The one sale that was treated on a net basis, and which coincidentally also had the largest personal property component, was that of a resident. It is simply wrong and not fair or just to treat non-residents differently.

Total Estimated Market Value, EMV, consists of two components, land and building. The attached graphs leave no doubt that South Pier Shores homes are unfairly and over assessed as respects land valuation.





702 is non-resident owned.

The obvious conclusion is either the land valuation for South Pier Shores homeowners must be reduced or the land valuations for all these neighboring properties must be increased. And the answer is clearly that the land components of all these other properties must be increased substantially. The reason is the assessed building components at South Pier Shores are already way overstated meaning even here land valuations are understated or under-weighted in respect to total market value. **And, especially as respects land, public policy normally rewards and favors higher density use of prized and scarce resources. It does not penalize it.**

Now as respects Building value, you need only compare 914 S Lake Ave. to other area properties to know our value is more in land and location and less in the building. This is plain, simple common sense.

Below is a sampling of properties currently for sale. You can look them up on Zillow or Trulia. Except for 1724 Minnesota Avenue, another lakeshore property that unequivocally demonstrates unfairness, all these other properties are larger homes where common sense says their building values should be greater than 914's building value. What this demonstrates is the truth that a larger part of our value is in our sliver of land and location. And if there is more value in our sliver of land, then there is much, much more value in the land of our neighbors.

Street	Number	Size	Bed	Bath	20/21 Building Assessed Value	21/22 Building Assessed Value	Asking Price
South Lake Avenue	914	2640	2	1.75	831200	847000	
East 3rd Street	2617	6646	10	10	911200	878200	1350000
South 26 Ave E	25	6640	6	5	679600	679600	725000
Hendrickson Road	5721	6604	4	4	426000	426000	579000
Minnesota Avenue	1724	4870	2	3.25	810500	810500	1400000
Valhalla Drive	1931	4748	3	3	492300	492300	925,000
Greystone Street	4958	4666	4	4	534600	534600	759900
White Pine Street	5036	4655	5	5	765800	727900	869900
Abbott Road	6727	4094	5	4	519000	471700	958500
Stebner Road	4092	3722	4	3	436200	436200	560000
Willow Place	3984	3374	4	3	378900	378900	634500

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It is also interesting to note in this sampling that none of these other properties experienced an increase in valuation and three in fact show a decreased valuation.

Now just look at only Park Point lakefront homes. Here are properties recently sold, for sale, or just comparable.

						20/21	21/22
Street	Number	Size	Lots	Bed	Bath	EMV	EMV
South Lake Avenue	914	2640	0.75	2	1.75	\$ 932,900	\$ 949,100
South Lake Avenue	828	5530	3	5	5+	\$ 929,600	\$ 929,600
South Lake Avenue	1629	3183	3	3	2.25	\$ 754,000	\$ 754,000
South Lake Avenue	1831	2116	2+	4	2.5	\$ 578,600	\$ 578,600
South Lake Avenue	2739	2196	1	3	2.25	\$ 380,700	\$ 380,700
South Lake Avenue	3125	3521	3	3	2.5	\$ 713,700	\$ 713,700
South Lake Avenue	3840	3114	5	3	2.5	\$ 609,300	\$ 609,300
South Lake Avenue	3925	1436	6	3	1.75	\$ 509,000	\$ 509,000
South Lake Avenue	4019	2528	1+	3	2.75	\$ 612,200	\$ 612,200
Minnesota Avenue	1724	4870	3	2	3.25	\$ 988,800	\$ 988,800
Minnesota Avenue	3332	2660	5	5	3	\$ 745,200	\$ 745,200
Minnesota Avenue	3955	6280	6	3	1.75	\$ 753,700	\$ 753,700
Minnesota Avenue	4246	2690	6	4	1.5	\$ 449,200	\$ 449,200
Minnesota Avenue	4488	2218	2+	3	1.75	\$ 597,400	\$ 597,400

Again, for the homes for sale, you can see them on Zillow or Trulia. Note a couple things. First, except for 914 S Lake, and the other South Pier Shore condos, not one of these properties see an increase in valuation. Second, of the properties with a sold price, but for my property, every one of them is valued at less than its purchase price. 4488 Minnesota was a multi parcel purchase and the EMVs include both parcels. 3332 Minnesota is currently for sale as a combined two unit parcel. 3125 S Lake sold again in December 2020 for \$895,000.

828 S Lake is the Solglimt Bed & Breakfast. An income producing property sitting on three prime, accessible lots with numerous outdoor features, decks and spaces as well. You can see photos of this property online via its website. It is inconceivable that 914 S Lake be valued more than 828 S Lake Ave. Clearly, 828 S Lake has both more land value and more building value, considerably more for each component.

It is also unjustifiable and inconceivable that 914 S Lake be valued more than 920 S Lake, another South Pier Shores unit. On a gross basis, 920 sold for \$200,000 more than 914 sold for. On a net basis, 920 S Lake sold for \$158,999 more. 920 sold for \$50,000 more net (\$950,000) than 914 sold gross (\$900,000). 920 is particularly nice, has a better design, finer materials and appointments and it includes a steam bath. 914 does not even have a jetted tub. 920's valuation is less than its purchase price. And land value? Really, how can there possibly be any difference whatsoever in our land values! 920 is resident owned.

As to specific value, for the petitions of taxes payable in 2019 and 2020, to prove beyond any shadow of doubt the assessed values were too high, I listed 914 S Lake for sale at the assessed value. It was a risk, but the point was proved. Only two parties looked at the unit. There was no offer from one party and attached is an offer received last June from the other party. June 2020 is between October 2019 and September 2020. The face of this offer is \$880,000. However, this is not the net offer. The offer stipulates several concessions. It states the Seller will pay 2.5% of the gross purchase price to Buyer's agent to cover Buyer's Buyer Representation Contract. And there is more, like paying \$5,000 in repairs, paying for inspections, paying special assessments,

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paying for professional cleaning, and more. It was also subject to an appraisal, subject to mortgage approval, subject to an inspection, and subject to a legal review. The arbitration agreement was also declined. I'll let you do the math and estimate net market value.

While this may settle the question of current value, there are a few additional points I would like to cover. The first point concerns garbage-in, garbage-out. Attached is an appraisal done for 914 S Lake shortly after our purchase. The purpose of the appraisal was to obtain a line of credit against the property. The first thing to note is the listed purchase price, \$900,000. This is what anyone gets when they look up or get data from the county. Because the county lists the gross sale price, garbage in, the public, consumers, and professionals are getting over-inflated information, garbage out. (And while not relevant here, there are other problems with this appraisal; like the Beacon Point comparable was a "two-unit", income property and some additions go the wrong way! 824 was essentially a new unit and 914 was 12 years old).

The second point concerns what the assessor said about the value of personal elevators at South Pier Shores. For the first time, last year, the assessor added \$40,000 on units with personal elevators. One local board member disagreed and felt that like pools, elevators in units did not necessarily add value. Our purchase should be proof of that. Anyway, the appraiser for the USBank appraisal only added \$10,000 for the elevator. More evidence the assessor is off.

Another example of Garbage-in and Garbage-out as well as confirmation of value at time of purchase is this Zillow Estimate from October 2018 shortly after our purchase. The Zestimate is \$785,348. My net \$791,001.

Zillow Estimate 914 S Lake 

Thomas Gavin 

Tue, Oct 2, 2018, 9:38 AM

to me

**914 S Lake Ave**

**Duluth, MN 55802**

2 beds 2 baths 2,640 sqft

Sold: \$900,000

Sold on 08/29/18

Zestimate®: \$785,348

Est. Refi Payment

\$4,842/mo

[See current rates](#)

Note: This property is not currently for sale or for rent. The description below may be from a previous listing.

This misinformation may be good for the City, County, Sellers, and Real Estate professionals, but it is harmful to Buyers and the General Public. It is false information. It is plain wrong. I believe the false recording of 914's purchase price potentially even harmed the buyers of 920 who purchased after us.

As to the veracity and integrity of the assessor's office, consider the following. Note the assessor's office unambiguously and without question fully accepts a \$150,000 personal component of a resident owned property but rejects and calls excessive \$109,999 declared by a non-resident. The non-resident properly declared the personal property in the CRV as required. The resident did not.

Also, importantly, the same personal property deemed excessive for a non-resident owner at \$109,999 was previously valued by the assessor at \$208,400: this is the deduction from gross purchase price that the previous resident owners received when the unit was valued after their purchase.

William Burns [REDACTED]

to me

Tom

I did review it.....

I was asked not to do any work in the original email

I don't pay a lot of attention to anything from our assessors office

Happy to discuss at some further date should you desire

Bill

**From:** Thomas Gavin [REDACTED]  
**Sent:** Thursday, July 2, 2020 1:28 PM  
**To:** William Burns [REDACTED]  
**Subject:** Re: #25 GAVIN

Would the return of fees paid be in order? I would have liked at least your take or response to this note. Tom

On Mon, Jun 15, 2020 at 7:09 PM Thomas Gavin <[REDACTED]> wrote:

Hi Bill:

See this from the County Assessor's Office

*"Notes... All units were designed to have elevators, but not all units have them installed. Subject property and comparable 1 & 3 have an elevator. All sale prices are based on purchase agreements of real property without exclusions of personal property. Comparable #1 has a \$150,000 personal property purchase agreement making the total purchase of that unit \$1,100,000. No other property has personal property amount exclusions or appraisals of personal property."*

Was our purchase handled correctly?

This is for your information and review. I am not engaging you or authorizing any work or time on my behalf.

Tom

See below from the assessor to the county review board and note this. The subject property and #3 are one and the same. This just makes no sense. Why didn't the assessor use the sale in December 2017 of 924 S Lake at \$825,000 with appliances? Why did the assessor not use the sale in August 2018 of unit 11 at Beacon Point for \$750,000? And contrary to what the assessor knew was true at the time, she compares the net purchase price of one unit against the gross purchase prices of the other units.

ITEM	SUBJECT	SALE #1	SALE #2	SALE #3
Parcel Code	010-4045-00030	010-4045-00060	010-4045-00020	010-4045-00030
Address	914 S. Lake Ave	920 S. Lake Ave	912 S. Lake Ave	914 S. Lake Ave
Distance to Subject		0 Miles	0 Miles	0 Miles
2020 EMV Land	\$101,700	\$100,900	\$100,500	\$101,700
2020 EMV Bldgs	\$831,200	\$831,200	\$792,300	\$831,200
2020 EMV Totals	\$932,900	\$932,100	\$892,800	\$932,900
Date of Sale	8/23/2018	April 2019	May 2019	August 2018
Sale Price	\$900,000	\$950,000	\$920,000	\$900,000

This email is the assessor's response to the owners of 912 S Lake after being notified of the inclusion of personal property in their purchase.

From: Anne Sims [REDACTED]  
To: 'Ellen Johanson' [REDACTED]  
Cc: Frank Carver [REDACTED]  
Sent: Wednesday, May 13, 2020, 1:21:17 PM CDT  
Subject: RE: Formal appeal to proposed taxes 2020

Hi Ellen & Richard,

Thank you for your email. Please note that I am not a formal appeal.

To answer your statement - all confirmed arm's length transactions are considered for a sales data comparison approach for determining market valuations. Your sale was confirmed as an arm's length transaction. I did not see a personal property appraisal or exclusion in your sale. Do you have a personal property appraisal to determine a value amount?

Your property sold for \$920,000. Your 2020 Assessed value is \$892,800. Please provide me any evidence you have regarding a personal property appraisal that would have been in addition to your purchase agreement and opinion of value for your property.

Thank you.

Anne Sims | Residential Appraiser

**Minnesota Department of Revenue does not require an appraisal or any written proof of value; only a good faith estimate of value!**

Rubbelke, Jodi (MDOR) [REDACTED]

Jul 16, 2020, 10:28 AM

to me  
Good Morning Tom,

I have been asked to respond to your Question:  
When we completed our CRV, we were told to use our best guesses and estimates. In the end, we did seek help from a professional personal property appraiser and valued it at the lower end of her estimated range. My question is whether there is a legal requirement to have the property appraised.

There is not a legal requirement to have the property appraised. If there is an appraisal, the appraisal information is required in the eCRV, pursuant to MN Statutes sections 272.115 and 270C.30 the Commissioner of Revenue prescribes the contents, format, and manner of eCRV.

Have a great day.

Jodi Rubbelke, OAS Senior  
Property Tax  
Operations  
eCRV Support

Minnesota Department of Revenue

And is the assessor's office saying our purchase was not an arms-length transaction? When I inquired about another property's value, Frank Carver also responded writing its sale was an arms-length transaction. Well, our purchase certainly, absolutely was an arms-length purchase. We did not know the previous owners, never negotiated directly with them, and to this date have never met them. We negotiated entirely through real estate brokers and we even closed in separate locations. Any suggestion otherwise is false.

We tried to find someone in Duluth to appraise the personal property and could not find anyone local. We got a ballpark figure from an assessor / appraiser in Wisconsin who put the value in a range between \$100,000 and \$150,000, saying it would likely be insured for more. After attempting to itemize the pieces and consulting with attorney Burns, we settled at the lower end of this range, about \$108,999. This is what is listed and detailed in the attached CRV.

Finally, a small part in the overall valuation of the personal property, but a vital point. Minnesota law states that personal property is that property that can be removed *without material damage to itself or to the real property*. The assessor was hung-up and fixated on our platform bed frames being considered personal property as they appear to be built in. These frames, however, are totally modular. Panels can be unscrewed from each other, separated, and moved. Doing so would not cause material damage to either the frames or the building. And how does even questioning the inclusion of one item negate the value of the whole?

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I will end here where we started; with Rule 68 offers. I filed these tax petitions because they are just and if not me, who will hold this office accountable. I filed to save perhaps a few thousand dollars. Rule 68 subverts justice by exposing a plaintiff to potentially having to cover County Court costs, expenses, and legal fees. Exposing taxpayers to liabilities far in excess of their potential reward stifles, hinders, and blocks justice. There should be a law against shutting down citizens like this. Or at least a citizen oversight board that does its duty.

Sincerely,

*Thomas Gavin*

Owner 914 S Lake Ave.

Enclosures:

Stipulation for Taxes Payable 2019

Stipulation for Taxes Payable 2020

Certificate of Value for 914 S Lake Ave

June 2020 Purchase Offer 914 S Lake Ave

USBank Appraisal for 914 S Lake Ave