
Vincent Milewski and Morganne MacDonald
1232 Linden Ln.
Kansasville, WI 53139,

Plaintiffs,

v.

Declaratory Judgment
Case Code: 30701
Case No. 14-CV-

Town of Dover
4110 S. Beaumont Ave.
P.O. Box 670
Kansasville, WI 53139,

Board of Review for the Town of Dover
4110 S. Beaumont Ave.
P.O. Box 670
Kansasville, WI 53139,

and

Gardiner Appraisal Service, LLC,
As Assessor for the Town of Dover
4719 Farwell St., Suite 5
McFarland, WI 53558,

Defendants.

SUMMONS

THE STATE OF WISCONSIN

To each person named above as a Defendant:

You are hereby notified that the Plaintiffs named above have filed a lawsuit or other legal action against you. The Complaint, which is attached, states the nature and basis of the legal action.

Within 20 days of receiving this Summons, you must respond with a written answer, as that term is used in Chapter 802 of the Wisconsin Statutes, to the Complaint. The court may

reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is: **Clerk of Circuit Court, Racine County Courthouse, 730 Wisconsin Avenue, Racine, WI 53403**, and to the Wisconsin Institute for Law & Liberty, plaintiffs' attorneys, whose address is: **1139 E. Knapp Street, Milwaukee, WI 53202**.

You may have an attorney help or represent you.

If you do not provide a proper answer within 20 days, the court may grant judgment against you for the award of money or other legal action requested in the Complaint, and you may lose your right to object to anything that is or may be incorrect in the Complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated this 22nd day of July, 2014.

WISCONSIN INSTITUTE FOR LAW & LIBERTY
Attorneys for Plaintiffs



Thomas C. Kamenick, WI Bar No. 1063682
414-727-6368; tom@will-law.org
1139 E. Knapp St.
Milwaukee, WI 53202
414-727-9455
FAX: 414-727-6385

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Defendants.

COMPLAINT

Now come the Plaintiffs, Vincent Milewski and Morganne MacDonald, by their attorneys, the Wisconsin Institute for Law & Liberty, and as and for their Complaint against the Defendants, Town of Dover, Board of Review for the Town of Dover, and Gardiner Appraisal Service, LLC, as Assessor for the Town of Dover, allege to the Court as follows:

1. This is an action based upon a tax assessment by Defendant Town of Dover on real property owned by the Plaintiffs.
2. This case implicates one of the most fundamental rights protected by the U.S. and Wisconsin Constitutions – the right of private individuals to be free from unreasonable searches of their property. Gardiner Appraisal Service, LLC, acting as assessor for the Town of Dover,

demanding entry into Plaintiffs' residence in connection with its reassessment program for properties located within the Town. Plaintiffs refused, as was their right, to permit unknown persons entry into their home, although they did permit Gardiner to enter on and inspect the property from outside their home. To retaliate against the Plaintiffs and to bully them into accepting future intrusive searches, the Defendants assessed the Plaintiffs' property at an excessive, arbitrary, and discriminatory level. State law does not require assessors to view the interiors of homes, and the assessors here did not even bother *asking* the Plaintiffs about the condition of their home, instead assuming, without any evidence, that the Plaintiffs had engaged in costly alterations and upgrades of their interior.

3. The Plaintiffs bring an action for an excessive assessment under Wis. Stat. § 74.37(3)(d), a claim of fraudulent valuation by assessor under Wis. Stat. § 70.501, a claim that Wis. Stat. § 70.47(7)(aa) is unconstitutional to the extent that it penalizes home owners for exercising their Fourth Amendment right to be free from unreasonable searches, a claim that the Defendants violated the Wisconsin Constitution's guarantee of uniform taxation under Article VIII, Section 1, and a claim that the Defendants deprived them of their constitutional rights in violation of 42 U.S.C. 1983.

PARTIES AND VENUE

4. The Plaintiffs, Vince Milewski and Morganne MacDonald, husband and wife, are adult residents of the State of Wisconsin living at 1232 Linden Lane, Kansasville, Wisconsin 53139 (the "Property").

5. The Plaintiffs are the record and beneficial owners of the Property.

6. The Property is located within the municipal limits of the Town of Dover.

7. The Defendant, Town of Dover ("Town"), is an unincorporated Wisconsin municipality operating under Chapter 60, Wis. Stats., maintaining its place of business at 4110 South Beaumont Avenue, P.O. Box 670, Kansasville, Wisconsin 53139.

8. The Board of Review of the Town of Dover ("BOR") is the board of review for the Town of Dover, as that term is used in Wis. Stat. §§ 70.46 and 70.47, maintaining its place of business at 4110 South Beaumont Avenue, P.O. Box 670, Kansasville, Wisconsin 53139.

9. Gardiner Appraisal Service, LLC (“Gardiner”) is a Limited Liability Company incorporated under the laws of the State of Wisconsin, with a principal office address of 4719 Farwell Street, Suite 5, McFarland, Wisconsin 53558.

10. Gardiner is the “assessor” for the Town as that term is used in Wis. Stat. § 70.05.

11. Upon information and belief, alternatively, Gardiner may be employed by the Town or the Town assessor as their agent as “expert help” as that term is used in Wis. Stat. § 70.055.

12. Venue is properly lodged in this Court pursuant to Wis. Stat. § 801.50(2) because Racine County is where the claim arose and is where the real property, which is the subject of the claim, is situated.

ASSESSMENT OF THE PROPERTY

13. In 2013, the Town undertook to reassess all of the properties within its municipal limits.

14. As it had in the past, the Town of Dover used Gardiner to reassess the properties.

15. Sometime in early August, 2013, the Plaintiffs received a notice in the mail that Gardiner would visit their home at 6:10 p.m. on August 20, 2013, to view the Property. A true and accurate copy of that notice is attached as Exhibit A. The notice stated, in part, that “We must view the interior of your property.”

16. On August 20, 2013, when an employee of Gardiner arrived at the Property, Ms. MacDonald told him that he was welcome to view the Property from the exterior, but was not allowed entry inside the house. Specifically, she offered to open the gate to their yard and allow the Gardiner employee access to the entire exterior of the Property.

17. The Gardiner employee left without accepting Ms. MacDonald’s offer to enter into the yard and view the exterior of the property, and without questioning her about the interior of the property.

18. On October 4, 2013, Gardiner sent the Plaintiffs a certified letter indicating that it had not “viewed the interior of your buildings” on the Property and asking the Plaintiffs to schedule a time for viewing. A true and accurate copy of that letter is attached as Exhibit B.

19. On or about October 8, 2013, the Plaintiffs wrote a letter to the Town Board explaining their objection to allowing “an unknown stranger entry into [their] private and secure

residence” and objecting to the Town’s position that interior viewing is necessary and reasonable. A true and accurate copy of that letter is attached as Exhibit C.

20. The Plaintiffs did not schedule another viewing, and Gardiner ultimately assessed the Property at \$307,100, a 10.56% increase from the previous year’s assessment of \$277,761.

21. At no time did Gardiner interview the Plaintiffs or otherwise seek information about the interior of the Property from the Plaintiffs.

22. Gardiner possessed no information that would support an assessment of \$307,100 for the Property.

23. Gardiner has a history of retaliating against the Plaintiffs for refusing to permit interior inspections of their Property.

24. In 2004, when doing a similar town-wide re-evaluation, the Plaintiffs initially refused to permit interior inspection, and Gardiner increased the assessment of their Property approximately 28%. Gardiner told the Plaintiffs that its assessment was based in part on the assumption that the Plaintiffs had finished their basement, when Gardiner had no evidence the Plaintiffs had in fact done so, and the Plaintiffs had not in fact finished their basement.

25. Having been coerced into permitting an interior inspection in 2004, the Plaintiffs acquiesced, and their assessment was eventually lowered.

DISPARATE ASSESSMENT OF SIMILARLY SITUATED PROPERTIES

26. The Property is located in the Lorimar Estates subdivision, which has a total of 43 residential parcels, almost all of which have been developed.

27. Of those 43 parcels, four of them (including the Property) were never viewed internally by Gardiner during the 2013 reassessment, either because the owners’ refused interior viewing or other circumstances precluded interior viewing.

28. Assessments for those four parcels all increased, at an average rate of 10.01%, from 2012 to 2013

29. Assessments for the other 39 parcels all decreased, at an average of 5.81%, from 2012 to 2013.

30. Gardiner possessed no information that would support raising the assessments of those four parcels while decreasing the assessments for the other 39 parcels.

ATTEMPTED TAX CHALLENGE

31. On November 14, 2013, the Plaintiffs filed an Objection Form for Real Property Assessment with the Town. A true and accurate copy of that form is attached as Exhibit D.

32. On November 25, 2013, Mr. Milewski appeared at the BOR hearing, attempting to object to his assessment.

33. However, the BOR, after substantial discussion, voted unanimously to refuse him the right to appear and contest his assessment, concluding that, under Wis. Stat. § 70.47(7)(aa), he had “refused a reasonable request by certified mail of the assessor to view [his] property.”

34. At the BOR hearing, Mr. Milewski argued that § 70.47(7)(aa) did not bar him from challenging his assessment because (1) the request to view the interior of the Property was *per se* unreasonable; and (2) he had not refused the assessor the ability to view the Property from the exterior, and the statute does not require an interior view.

35. The BOR rejected that argument, and refused to allow him to appear and contest his assessment.

36. The Plaintiffs paid the taxes due on the Property by January 30, 2014.

37. On January 30, 2014, the Plaintiffs served on the Town Clerk a Notice of Claim and Claim under Wis. Stat. § 74.37 against the Town, alleging that their assessment was excessive and violated their Fourth Amendment rights. A true and accurate copy of that claim is attached as Exhibit E.

38. The Town of Dover did not deny or allow the Claim within 90 days after the Claim was filed. By its inaction, the Town of Dover effectively disallowed the Claim on April 30, 2014, by operation of Wis. Stat. § 74.37(3)(a). For purposes of any of the below claims subject to the notice of injury and claim requirements of § 893.80, the Defendants effectively disallowed those claims on May 30, 2014, by their inaction and operation of Wis. Stat. § 893.80(1g).

FIRST CLAIM – Declaratory Judgment § 70.47(7)(aa) Is Unconstitutional as Applied to the Plaintiffs

39. The preceding paragraphs are hereby incorporated and realleged as if fully stated herein.

40. The Fourth Amendment to the United States Constitution states that “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated”

41. Article I, Section 11 of the Wisconsin Constitution reads identically, save one punctuation change, and Wisconsin courts ordinarily “construe[] the protections of these provisions coextensively.” *State v. Artic*, 2010 WI 83, ¶28.

42. Furthermore, the rights protected by the Fourth Amendment have been incorporated against the states via the Due Process Clause of the Fourteenth Amendment. *Wolf v. Colorado*, 338 U.S. 25 (1949).

43. The rights protected by the Fourth Amendment and the parallel Wisconsin provision are not limited to those accused of committing a crime. *Camara v. Municipal Court of San Francisco*, 387 U.S. 523.

44. Wis. Stat. § 70.47(7)(aa) states that “[n]o person shall be allowed to appear before the board of review, to testify to the board by telephone or to contest the amount of any assessment of real or personal property if the person has refused a reasonable written request by certified mail of the assessor to view such property.”

45. The Plaintiffs have a constitutional right to refuse to consent to a government search of their property. See *Schneckloth v. Bustamonte*, 412 U.S. 218 (1973).

46. Once refused consent, the government cannot enter private property without obtaining a warrant, unless an exception to the warrant requirement applies. *Id.* at 219.

47. No exception to the warrant requirement applies here. In particular, Gardiner’s request to view the interior of the Property cannot be considered an administrative search, because Wisconsin statutes do not contain the detailed procedures and safeguards that would comprise an adequate substitute for the warrant requirement, and a person’s home is not a closely-regulated industry long subject to close supervision and inspection that would permit such inspections. See *Donovan v. Dewey*, 452 U.S. 594 (1981); *Marshall v. Barlow’s, Inc.*, 436 U.S. 307 (1978).

48. However, § 70.47(7)(aa) punishes people like the Plaintiffs for exercising their constitutional rights. “It has long been established that a State may not impose a penalty upon those who exercise a right guaranteed by the Constitution. . . . Constitutional rights would be of

little value if they could be . . . indirectly denied.” *Dunn v. Blumstein*, 405 U.S. 330, 341 (1972) (quoting *Harman v. Forssenius*, 380 U.S. 528, 540 (1965)).

49. Because they asserted their constitutional right to refuse to consent to an intrusive search of their property, the Plaintiffs are barred by § 70.47(7)(aa) from challenging the assessment of their property in any manner before the BOR. No matter how arbitrary, capricious, erroneous, or even intentionally punitive and discriminatory the assessment might be, a property owner cannot challenge the assessment before the BOR, *which is a necessary first step* to bringing any other challenge. See Wis. Stat. § 74.37(4)(a) (“No claim or action for an excessive assessment may be brought under this section unless the procedures for objecting to assessments under s. 70.47, except under s. 70.47(13), have been complied with.”).

50. Furthermore, to the extent that the combination of § 70.47(7)(aa) and § 74.37(4)(a) prohibit property owners who exercise their Fourth Amendment rights from contesting the amount of their assessments, those laws deprive such property owners of their right to due process of law under the Fifth and Fourteenth Amendments of the United States Constitution and Article I, Section 1 of the Wisconsin Constitution.

51. Thus, while § 70.47(7)(aa) could perhaps in some situations be enforced without violating constitutional rights, here its application violates the constitutional rights of the Plaintiffs by punishing them for exercising those rights and depriving them of due process.

SECOND CLAIM – Against all Defendants
42 U.S.C. § 1983 Claim for Deprivation of Constitutional Rights

52. The preceding paragraphs are hereby incorporated and realleged as if fully stated herein.

53. Under 42 U.S.C. § 1983, “[e]very person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress”

54. Gardiner, although a private company, was either the Town's official assessor or was acting as an agent for the assessor, and was therefore a government actor acting under color of state law.

55. Gardiner, by raising the assessment of the Plaintiffs' Property in retaliation for exercising their constitutional rights, deprived them of the right to be free from unreasonable searches secured by the Fourth and Fourteenth Amendments to the United States Constitution.

56. Gardiner, by assessing the Plaintiffs' Property (along with the other properties whose interiors were not viewed) in a discriminatory manner compared to the owners of similarly-situated properties in the Lorimar Estates subdivision, deprived the Plaintiffs of the right to equal protection secured by the Fourteenth Amendment to the United States Constitution.

57. The BOR, acting under the authority of § 70.47(7)(aa), refused to permit the Plaintiffs to challenge the assessment on their Property.

58. However, the Plaintiffs did not "refuse[] a reasonable request by certified mail of the assessor to view [their] property." The Wisconsin Statutes do not require assessors to view the interiors of properties. The Plaintiffs permitted – or attempted to permit – Gardiner to view the Property – from its exterior. They consented to the request to view their Property, and only refused the *unreasonable* request to view the Property's interior.

59. The BOR, by refusing to allow the Plaintiffs to appear and challenge the assessment of their Property because the Plaintiffs refused to permit a warrantless inspection of the interior of their home, deprived the Plaintiffs of the right to be free from unreasonable searches secured by the Fourth and Fourteenth Amendments to the United States Constitution.

60. The Town has a policy of requiring assessors to view the interiors of the properties they assess, a policy not required by state statute.

61. This policy violates the constitutional rights of property owners who refuse to permit assessors to enter into their homes without a warrant, because such owners are prohibited from challenging their assessments before the BOR. Without this policy, the assessor would view the exterior and interview owners about the interiors of their houses; having no objection to this process, the Plaintiffs would not refuse such a request and would therefore have been permitted to appear before the BOR to contest their assessment.

62. The Town, by enforcing this policy, deprived the Plaintiffs of the right to be free from unreasonable searches secured by the Fourth and Fourteenth Amendments to the United States Constitution.

**THIRD CLAIM – Declaratory Judgment
Violation of Uniformity Clause, Wis. Const. Article VIII, § 1**

63. The preceding paragraphs are hereby incorporated and realleged as if fully stated herein.

64. The Uniformity Clause of the Wisconsin Constitution, Article VIII, Section 1, states that “The rule of taxation shall be uniform Taxes shall be levied upon such property . . . as the legislature shall prescribe.”

65. “In order to ensure a uniform method of taxation, § 70.32(1), stats., requires assessors, in valuing real estate, to determine its fair market value, using the best information the assessor can practicably obtain.” *Noah’s Ark Family Park v. BOR of the Town of Lake Delton*, 201 Wis. 2d 301, 311 (Ct. App. 1997).

66. The Town’s method of assessment for the Property was arbitrary, used improper considerations, and failed to use the proper considerations.

67. The Town’s assessment of the Property was in part retaliatory, as well as being an effort to coerce the Plaintiffs into giving up their Fourth Amendment right to object to a search of their home.

68. The Town considered assumptions with no evidentiary basis about the Property when assessing it. As the Town had no information about the interior of the Property, it must have made certain assumptions to have made an assessment at all.

69. The Town’s assessment failed to use the best available information about the Property. While Gardiner obtained information about the interiors of the other properties in the Lorimar Estates subdivision by viewing them (and presumably used that information in calculating those properties’ full market values), Gardiner made no attempt to obtain information about the interior of the Property other than its failed attempt to view the interior. Gardiner did not ask the Plaintiffs about the interior of the Property, which was readily-available information.

70. The Town’s assessment of the Property therefore violates the Uniformity Clause.

FOURTH CLAIM – Against Defendant Town of Dover
§ 74.37(3)(d) Action for an Excessive Assessment

71. The preceding paragraphs are hereby incorporated and realleged as if fully stated herein.

72. Under Wis. Stat. § 70.32(1), “[r]eal property shall be valued by the assessor in the manner specified in the Wisconsin property assessment manual provided under s. 73.03(2a) from actual view or from the best information that the assessor can practicably obtain, at the full value which could ordinarily be obtained therefore at private sale.”

73. Gardiner failed to value the Property in the manner specified in the Wisconsin property assessment manual from actual view or the best information that Gardiner could have practicably obtained.

74. Gardiner failed to view the entire exterior of the property as invited by Ms. MacDonald.

75. Gardiner failed to use practical methods to obtain additional information about the Property, namely interviewing the Plaintiffs about the Property.

76. Gardiner intentionally overvalued the Property, in retaliation against the Plaintiffs for refusing to allow Gardiner to enter the interior of the Property, and to coerce the Plaintiffs to permit Gardiner to enter the interior of the Property.

77. The full value which could ordinarily be obtained at private sale for the Property is not \$307,100.

78. The full value which could ordinarily be obtained at private sale for the Property is \$232,600.

79. The tax assessed and paid on the Property was \$5,037.15.

80. The proper amount of tax that should have been assessed on the Property was \$3,768.44.

81. Therefore, Plaintiffs are entitled to a return of \$1,268.71 from the Town and a reassessment of their property at \$232,600.

FIFTH CLAIM – Against Defendant Gardiner Appraisal Service, LLC
§ 70.501 Action for Fraudulent Valuations by Assessor

82. The preceding paragraphs are hereby incorporated and realleged as if fully stated herein.

83. Wis. Stat. § 70.501 states that “[a]ny assessor, or person appointed or designated under s. 70.055 or 70.75, who intentionally fixes the value of any property assessed by that person at less or more than the true value thereof prescribed by law for the valuation of the same, . . . or otherwise intentionally violates or fails to perform any duty imposed upon that person by law relating to the assessment of property for taxation, shall forfeit to the state not less than \$50 nor more than \$250.”

84. Under Wis. Stat. § 70.503, “[i]f any assessor, or person appointed or designated under s. 70.055 or 70.75, . . . is guilty of any violation or omission of duty as specified in ss. 70.501 and 70.502, such persons shall be liable in damages to any person who may sustain loss or injury thereby, to the amount of such loss or injury; and any person sustaining such loss or injury shall be entitled to all the remedies given by law in actions for damages for tortious or wrongful acts.”

85. Gardiner intentionally fixed the value of the Property at more than its true value thereof prescribed by law and failed to perform its statutory duty of valuing the Property from actual view or from the best information that the assessor could practicably obtain.

86. Therefore, Gardiner is individually liable in damages to the Plaintiffs in the amount of the excessive tax, \$1,268.71, and is also liable for a forfeiture of not less than \$50, nor more than \$250 to be paid to the state.

RELIEF REQUESTED

WHEREFORE, the Plaintiffs respectfully request this Court grant the following relief:

- a. A declaratory judgment that Wis. Stat. § 70.47(7)(aa) is unconstitutional as applied to the Plaintiffs in violation of the right to be free from unreasonable searches protected by the Fourth and Fourteenth Amendments of the United States Constitution and Article I, Section 11 of the Wisconsin Constitution and the right to due process protected by the Fifth and Fourteenth Amendments of the United States Constitution and Article I, Section 1 of the Wisconsin Constitution;
- b. A declaratory judgment that the Town’s assessment of the Property violates the Uniformity Clause of the Wisconsin Constitution;
- c. An order directing the Town to reassess the Property at \$232,600;
- d. A judgment against the Town in the amount of \$1,268.71 under § 74.37;

- e. A judgment against Gardiner in the amount of \$1,268.71 under § 70.503;
- f. A forfeiture against Gardiner in the amount of \$250 under § 70.501, payable to the State of Wisconsin.
- g. A judgment finding that Gardiner, the BOR, and the Town deprived the Plaintiffs of their constitutional rights in violation of 42 U.S.C. § 1983, and damages thereon;
- h. An award of reasonable attorney fees and costs under 42 U.S.C. § 1988; and
- i. Any other relief this Court finds necessary.

THE PLAINTIFFS HEREBY DEMAND A JURY OF TWELVE PERSONS

Dated this 22nd day of July, 2014.

WISCONSIN INSTITUTE FOR LAW & LIBERTY
Attorneys for Plaintiffs



Thomas C. Kamenick, WI Bar No. 1063682
414-727-6368; tom@will-law.org
1139 E. Knapp St.
Milwaukee, WI 53202
414-727-9455
FAX: 414-727-6385

Tax Parcel Number 0320-22-243-000
Town of Dover

Dear Property Owner,

We must view the interior of your property for the Town wide revaluation program which is in progress.

An assessor will stop to view your property on
Tues, Aug 20 at 6:10 AM / PM

Thank you,

Gardiner Appraisal Service, LLC, Assessors

(608) 838-3993



Gardiner Appraisal Service, LLC

P.O. Box 525
McFarland, WI 53558

Office: (608) 838-3993 – Fax: (608) 838-8912



October 4, 2013

Vincent Milewski & Morganne MacDonald
1232 Linden Ln
Kansasville, WI 53139

Vincent Milewski & Morganne MacDonald:

It is the assessor's responsibility to maintain equity and uniformity of assessments.

We have not yet viewed the interior of your buildings located in the Town of Dover on land identified as tax parcel number, 032022243000, located at 1232 Linden Ln , because you have refused us entry. If you would like to have us view your property for the revaluation please call our office prior to 4:00pm on Friday, October 11, 2013 to find out when the assessor would be available to view the property. If you fail to schedule an appointment your property will then be assessed according to the Wisconsin State Statutes provided below.

Chapter 70.32(1) states in part: "Real property shall be valued by the assessor in the manner specified in the Wisconsin property assessment manual provided under s.73.03(2a) from actual view or from the best information the assessor can practicably obtain, at the full value which could ordinarily be obtained therefore at private sale." Also, Chapter 70.47 paragraph 7(aa) states in part: "No person shall be allowed to appear before the Board of Review if he shall have refused a reasonable written request by certified mail of the assessor to view such property." If no response is made to our office prior to the Board of Review it will be considered a refusal to allow viewing of this property.

Thank you very much for your cooperation.

Sincerely,

Gregory E. Gardiner
Assessor

EXHIBIT B

Town of Dover Town Board
4110 S. Beaumont Ave.
Kansasville, WI 53139

RE: Gardiner Appraisal Service

Dear Town Board,

Several weeks ago my family received notice that a representative of Gardiner Appraisal Service would be visiting our residence to 'view' our property. Shortly thereafter, a representative did stop at our residence and requested entry into our home. My wife instructed the person that he was free to 'view' our property from anywhere on our property, but that 'entry' into our home would not be allowed. The representative then posed a question to my wife of "Are denying me the right to view your property?" My wife responded that she was not denying him the right to 'view' our property, but was denying him 'entry' into our home.

Last year I expressed concerns at a Plan Commission meeting when a representative of Gardiner Appraisal Service appeared and gave a presentation to the commission regarding the forthcoming town-wide revaluation. That representative made the claim that state law required that they enter each residence for purposes of revaluation. I subsequently learned that that was a false claim and that interior home inspections are not legally required for a revaluation. I sent a letter to the Town Board stating my concerns (see attachment) and our Town Attorney's assistant/colleague weighed in with the following:

We think that he is correct, interior inspections are not required by statute. However, 70.47(7)(aa) says that a homeowner may not challenge the assessment if they have refused a "reasonable" written request of the assessor to view the property. So, if Dover's assessor thinks it's necessary to view the inside of their home and the homeowner refuses, I think they give up their right to challenge the assessment.

It is our position that we have not refused a "reasonable" request to view our property by refusing to allow an unknown stranger entry into our private and secure residence. The representative viewed our property when he walked up to our front door and was offered full access to 'view' the property from the exterior. That is reasonable accommodation. Requesting 'entry' into our residence is an invasion of personal privacy and is not reasonable. We believe that the concluding statement by the Town Attorney's assistant/colleague is in error in that negates private property rights in favor of administrative decisions made by an assessor. Few communities conduct exhaustive interior inspections as a part of their assessment duties in part for this very reason.

The last time the town undertook a town-wide revaluation, also conducted by Gardiner Appraisal Service, we initially refused entry into our home. When the assessor gave our home one of the highest valuations in our subdivision (clearly inappropriate) we tried to challenge the valuation but were refused unless we allowed an appraiser from Gardiner entry into our home. Gardiner initially valued our home based upon having a finished basement. At no time did we ever apply for building permits for any work of that sort, yet he said that they just assumed that we finished it because everyone does that. We acquiesced and agreed to let an appraiser into our home. He quickly learned that we were telling the truth. Our valuation was lowered slightly, but not to the extent that it should have been. I then appeared before the Board of Review to challenge the valuation and was told by Chairman Lembcke that "We'll treat this one the same as all of the others in Lorimar - denied." That, despite the fact that I presented a comprehensive analysis of adjacent property values and how our valuation was out of line with our neighbor's.

Today I received a certified letter from Gardiner Appraisal Service that reiterates their incorrect interpretation of state statutes and threatens to refuse to allow us to appear before the Board of Review if we do not allow them entry into our residence. I will forward a copy of this letter to them as our response to their letter.

Given our past experiences with Gardiner Appraisal Service and the Town of Dover Board of Review, we are ever more convinced to protect our personal privacy rights and not allow unwelcomed strangers into our home. That does not mean that we will necessarily accept the valuation presented by Gardiner Appraisal Service, we might, we might not. We do, however, reserve our right to challenge a valuation which we deem inappropriate or inaccurate before the Board of Review, as we have allowed "reasonable" access to 'viewing' our property and no changes have been made to our property since the previous revaluation other than routine maintenance.

Sincerely,

Vincent D. Milewski
1232 Linden Lane
Kansasville, WI 53139

OBJECTION FORM FOR REAL PROPERTY ASSESSMENT

Section 70.47(7)(a), Wisconsin Statutes states " No person shall be allowed in any action or proceedings to question the amount or valuation of property unless such written objection has been filed and such person in good faith presented evidence to such board in support of such objection and made full disclosure before said board . . . "

Note: The Board of Review can hear only sworn oral testimony regarding the value of the property. It cannot hear protests regarding the amount of property taxes or questions of exemption. The best evidence of the value of your property is a recent arm's-length sale of your property. The next best evidence is recent arm's length sales of comparable property. If there are no sales of your property or comparable property, you should present other evidence that indicates the value of your property. This would include cost, income, appraisals, and sales of like property.

Property Owner's Name VINCENT D. MILEWICKI, MORGANNE L. MACDONALD	Agent Name (if applicable)
Owner's Mailing Address 1232 LINDEN LANE, KANSASVILLE, WI	Agent's Mailing Address
Owner's Telephone Number 414-217-1061	Agent's Telephone Number

Please provide the following information on the property and the assessment to which you are objecting. (Attach additional sheets, if necessary.)

- Property Address **1232 LINDEN LANE, KANSASVILLE, WI**
- Legal Description or parcel number from the current assessment roll **006 032 0222 43000**

- Total Property Assessments **307,100**
- Please explain why you think the above assessed value is incorrect **ALL PROPERTIES THAT HAD INTERIOR INSPECTIONS IN OUR SUBDIVISION WENT DOWN - THOSE THAT DID NOT WENT UP. -6% VS +10 %**
- In your opinion, what was the taxable value of this property on January 1 of the year being appealed? **257,986**
If this property contains acreage that is not in a market value class, provide a further opinion of the taxable value breakdown:

STATUTORY CLASS	ACRES	\$ PER ACRE	FULL TAXABLE VALUE
Residential Total Market Value			257,986
Commercial Total Market Value			
Agricultural Classification: # of Tillable Acres	@	\$ acre use value	
# of Pasture Acres	@	\$ acre use value	
# of Specialty Acres	@	\$ acre use value	
Undeveloped Classification # of Acres	@	\$ acre @ 50% of Market Value	
Agricultural Forest Classification # of Acres	@	\$ acre @ 50% of Market Value	
Forest Classification # of Acres	@	\$ acre @ Market Value	
Class 7 "Other" Total Market Value		Market Value	
Managed Forest Land Acres	@	\$ acre @ 50% of Market Value	
Managed Forest Land Acres	@	Market Value	

- Check the method of acquisition of the property: ☒ **BUILT NEW** ☐ Purchase ☐ Trade ☐ Gift ☐ Inheritance
Acquisition Price **\$ 125,000** Date **3/1993**

- Have you improved, remodeled, added to, or changed this property since acquiring it? ☒ Yes ☐ No
If yes, describe: **ADDED FIREPLACE, REAR DECK & SHED**
(a) When were the changes made? **FP & DECK - 2000 SHED - 2002**
(b) What were the cost of the changes? **FP & DECK - \$10,000 SHED - \$3000**
(c) Does the above figure include the value of all labor, including your own? ☒ Yes ☐ No
- Have you listed the property for sale within the last five years? ☐ Yes ☒ No
(a) If yes, when and for how long was the property listed?
(b) What was the asking price?
(c) What offers were received?
- (a) Has anyone made an appraisal of this property within the last five years? ☐ Yes ☒ No
(b) If yes, when and for what purpose?
(c) What was the appraised value?
- Please list the name(s) of Board of Review member(s) you are requesting to be removed from your hearing. NOTE: This section does not apply in first or second class cities. **THOMAS LEMBECKE**
- Please provide a reasonable estimate of the length of time that the hearing will take **10-15 MINUTES**

Owner's or Agent's Signature 	Date 11/14/2013
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NOTICE OF CLAIM AND CLAIM

Wis. Stat. §74.37

The following persons, hereinafter referred to as "Claimants", hereby tender this Notice of Claim and Claim to the Town of Dover, Racine County, Wisconsin, all in accord with Wis. Stat. §74.37.

Vincent D. Milewski and Morganne L. MacDonald

1. Claimants are property owners in, and residents of, the Town of Dover, Racine County, Wisconsin ("Town").
2. Claimants received one 2013 Property Tax Bill ("Bill") for real property within the Town with Tax ID Parcel Number 006-03-20-22-243-000. A copy of the tax bill is attached and incorporated herein.
3. Claimants have paid the Bill, in full, in a timely manner as provided by Wisconsin Statutes.
4. The Bill is based upon a Total Assessed Value ("TAV") of the property in the amount of \$307,100.00, a Net Assessed Value Rate of \$17.02965/M, and First Dollar and Lottery and Gaming Credits, resulting in a Net Tax of \$5,037.15.
5. The Town undertook a comprehensive revaluation in 2013 which resulted in the increase of the TAV of the Claimant's property from \$273,900.00 to \$307,100.00.
6. The Claimants denied access to the interior of their residence during the revaluation process. This is a right protected by the Fourth and Fourteenth Amendments to the U.S. Constitution.
7. Vincent D. Milewski timely attempted to appear before the Town of Dover Board of Review to challenge the revaluation, both in writing and in person, but the Board voted to not recognize his appearance because of Wis. Stat. §70.47(7)(aa).
8. The Net Tax in the amount of \$5,037.15 is an excessive assessment under Wis. Stat. §74.37.
9. At no time did the Town or Town Assessor obtain a warrant to inspect Claimants' residence.
10. Wis. Stat. §70.47(7)(aa) violates the Fourth and Fourteenth Amendments to the U.S. Constitution.

WHEREFORE, Claimants demand the following relief from the Town of Dover:

1. That the Town of Dover acknowledge that the valuation by the Town Assessor, of real property owned by the Claimants, was punitive as it penalized Claimants for exercising their constitutional rights and is inconsistent with Professionally Accepted Appraisal Practices.
2. That the Town refund a sum of \$1,268.71 to Claimants, based upon a correct valuation of their real property at \$232,600.00.

This Notice of Claim and Claim is filed pursuant to Wis. Stat. §74.37 by Claimants Vincent D. Milewski and Morganne L. MacDonald.

Date: 1/30/14

By: Vincent D. Milewski

Date: 1-30-2014

By: Morganne L. MacDonald