

2022 State Board of Equalization

August 9, 2022

File No.: 2022-WEST FARGO-TEVYE LLC

County or City: City of West Fargo

Appellant: Tevye, LLC

Issue: Appellants appealing property valuation.

Summary: Tevye LLC, represented by Tami Norgard, Vogel Law Firm, requests a reduction in valuation on parcel number 02-4955-00010-000, located at 4980 Sheyenne ST, within the City of West Fargo.

Notes:

600 E. BOULEVARD AVE., DEPT 127
BISMARCK, ND 58505-0599

WWW.ND.GOV/TAX | TAXINFO@ND.GOV  NORTH DAKOTA



Appellant Information – 2022 State Board of Equalization

County or City: Cass County/West Fargo
 Appellant: Tevey, LLC
 Type of Appeal: Residential

Please complete this form in its entirety. The information provided will be taken into consideration when investigating and reaching a conclusion regarding the appeal presented. To provide ample time for investigation, all information to support the appeal (property information, pictures, income information, etc.) must be received by August 3, 2022 and is subject to open records. Please provide one questionnaire per property.

Please email or mail any supporting documentation to:

propertytax@nd.gov or Office of State Tax Commissioner
 Attn: Property Tax
 600 E. Boulevard Ave.
 Bismarck, ND 58505-0599

Information for Property Referenced in Appeal:

Address:	4980 Sheyenne St		
City: West Fargo	State: ND	Zip: 58078	
Township (if applicable): Township Name	County: Cass		
Parcel ID: 02-4955-00010-000	Legal Description: TEVYE ADDITION LT 1 BLK 1 **4-23-19 PLATTED FRM 02-3000-01275-000 PER PLAT DOC#1559482 FOR 2019		

Appellant Contact Information:

Name:	Vogel Law Firm		
Address:	218 NP Ave		
City: Fargo	State: ND	58102	
Phone number: 701-237-6983	Email address: tnorgard@vogellaw.com		

Answer the questions below that apply to the appeal:

Are you the owner of the property of this appeal? Yes No
 (If No, please see the Consent to Release Financial Info)

Did you receive a notice of increase letter from the city/township? (use drop-down for all that apply)
 Prior to Township/City Equalization Meeting
 Prior to
 Choose One

At which meeting did you appeal your assessment? (choose all that apply)

Township City County N/A

Please explain your appeal.

The basis for the appeal is identified in the attached letter from Tami Norgard, attorney from the Vogel Law Firm.

Any evidence to validate your appeal of the assessment?

We provided an appraisal to the City of West Fargo, by licensed appraisers using West Fargo comparables. Since there are no similar sales in West Fargo, an amended appraisal will be provided at the August 9 hearing. The substance of the appraisal is complete, but it will not be finalized by today's submission deadline.

Has a recent appraisal been completed on the property? Yes

Please attach or email (propertytax@nd.gov) the following:

1. A detailed explanation of your appeal
2. Evidence to validate the assessment appealed
3. Consent to Release Financial Information, if required

August 3, 2022

North Dakota State Board of Equalization
Attn: Brian Kroshus, Tax Commissioner & Secretary
North Dakota Capitol Building
600 E. Boulevard Ave., Dept 127
Bismarck, ND 58505

Via email: propertytax@nd.gov

**Re: 4980 Sheyenne St., West Fargo, ND 58078 (Teveye, LLC)
Dispute of Tax Assessment and Request for Correction.**

Dear State Board of Equalization:

Teveye, LLC (“Teveye”) hereby requests a reduction and correction to West Fargo’s valuation and corresponding tax assessment for 4980 Sheyenne St., West Fargo, ND 58078 (Parcel ID: 02-4955-00010-000) (hereinafter “Property”). In this letter, I will attempt to convey the magnitude of the inadequate process utilized by a major North Dakota city as reflected in my client’s unreasonable property tax assessment by The City of West Fargo (“City”). The City currently assesses this Property at a level that I understand from our appraisers is among the highest values ascribed to any home in North Dakota, at \$6,196,600. Teveye obtained an independent appraisal from local, credible appraisers often used by the City, who determined that the actual true and full value of the Property is \$3,470,000.

“True and full value is the starting point in the assessment process for property taxation purposes.” *Property Tax Guideline: Assessment Terms and Concepts*, (5)(c), N.D. Office of State Tax Comm’r, July 2005. “Market value is the same as true and full value for residential and commercial property.” *Id.* at (2)(a). “For assessment of residential and commercial property, the assessor must **first** estimate the market value of property.” *Id.* at (2)(b) (emphasis added). Market value is defined as, “the most probable price expressed in terms of money that a property would bring if exposed for sale in the open market in an arms-length transaction between a willing seller and a willing buyer” *RFM-TREI Jefferson Apartments, LLC v. Stark County Bd. of Comm’rs*, 2020 ND 204, ¶ 12, 950 N.W.2d 160. From this summation of law, there is a clear framework for assessors to utilize. They must establish a market value for a residence at the outset of their assessment. West Fargo City Assessor Nick Lee stated at the June 20th Cass County Commission meeting that West Fargo uses replacement cost as the basis for his office’s assessments. See ([Cass County Commission Recording - June 20, 2022](#)) at 1:01:15. Clearly, the City’s assessment procedure does not comport with North Dakota law,

and that flawed process led to Tevey's Property being over-assessed by \$2.7+ million. That isn't that far off from double the true and full value.

On appeal to Cass County, the Cass County Commission upheld the City's assessment, yet Commissioners blatantly stated that they agreed with Tevey that the \$6.2 million valuation was "arbitrary." The County Commission advised that we should seek relief at the State Board of Equalization. County Board Chairman Steen stated the Commission's only options were to keep the City's assessment fully intact or fully accept Tevey's proposed value. He said it would be arbitrary if they picked a number in the middle. See ([Cass County Commission Meeting Recording - June 20, 2022](#)) at 1:21:50. Yet, both Commissioner Steen and Paul Fracasi, Cass County Director of Equalization, admitted they knew the City's assessment was wrong. See ([Cass County Commission Meeting Recording - June 20, 2022](#)) (at 1:06:20 for Commissioner Steen's comments, and at 59:27 for Mr. Fracasi's statement). The North Dakota Supreme Court says a county absolutely has the power to pick a number in the middle. *Dakota Nw. Assoc. Ltd. P'ship v. Burleigh County Bd. of County Comm'rs*, 2000 ND 164, ¶ 13, 616 N.W.2d 349 (upholding the county commission's decision to pick a compromise assessment in between the parties' proposals). The County is not obligated to pick the City's number or the landowner's number.

Summary of Concerns

1. ***Assessments not Based on Market Value*** – If property is assessed in excess of its market value, the Board of Equalization must abate the excess. By relying largely on the cost of new construction, the City is not assessing homes based on their true market value. This results in many high value homes being over assessed in West Fargo. It is particularly evident in the sales of custom home builders to their custom home buyers in the last year, where construction costs escalated by up to 30%. The costs of custom, high end homes became incredibly high to owners who had houses under contract. Yet, just because someone ends up paying 30% more than anticipated when they signed a contract with their builder, that does not create a higher market value. Market value is what a willing buyer will pay a willing seller for a property on the open market. That is vastly different from the custom home contract payment that the City uses to set values in West Fargo. The City used Tevey's building permit value and other custom home sales in West Fargo as their basis to justify the Tevey parcel at \$6.2 million. The City did not use "market value" as the basis of the valuation.
2. ***Reliance on Cost of Construction*** - Perhaps the most significant fundamental flaw in the City's calculation, the City Assessor heavily relies on costs of construction as evidence of market value. The City Assessor uses a general price per square foot of construction costs for newly constructed homes, which are not comparables. They are simply an indication of what homeowners decided to invest in their own houses. Particularly for high value homes, the

amount that high income property owners decide to invest in property does not necessarily reflect what the market value would demand. The City of West Fargo Assessor uses, as comparable sales, sales of homes from custom builders to their clients. The result is a significantly inflated market value for many homes in West Fargo, which does not adequately reflect the West Fargo/Fargo housing market values. The City of West Fargo's assessment process leads to values that far exceed the values assessed on properties in nearby Fargo. This leads to extremely inequitable taxation within the County.

3. **Reliance on Building Permits** –The City used the building permit as the primary source of building cost information. This does not create a cost estimate for valuation. Many high value homes' construction costs exceed the building permit, and Tevye should not be punished for its builder submitting a good faith, honest application. The City should correlate known cost calculators to reach its assessment valuation.
4. **Inequal Assessment** – There are numerous examples of high value homes in neighboring cities whose tax burdens are a fraction of Tevye's. Our appraisal will provide examples. One illustrative example is located at 7010 52nd Ave S, Horace, ND 58047 ("Horace Home"). The Horace Home sits only half a mile away from Tevye's property, both equidistant from 52nd Avenue South. The Horace Home is zoned residential and sits on a lot with 37.19 acres, containing 9,738 square feet of Total Living Area ("TLA"). The County assesses the Horace land at just over \$10,000 per acre compared to Tevye's \$152,000 per acre assessment, within a half mile of each other. This is illustrative of blatantly unequal assessment within a neighborhood. Your duty as the state Board of Equalization is to equalize the assessments so similar properties are taxed similarly based on their market value. N.D.C.C. § 57-13-03. Tevye should be more closely aligned with the Horace House's valuation for tax purposes. Tevye's property is not development land, it should be assessed similarly to the Horace Home. Similarly, a home located at 3253 Timber Creek Circle South in sits on a one-acre lot with almost 9,800 square feet and an indoor pool, much like the Tevye property. The City of Fargo's 2022 certified taxable valuation of \$1,570,600 for a beautiful, high end custom home with an indoor pool. This house has sat on the market for many months and remains unsold. Tevye simply seeks fairness and equity when having a City determine a valuation for tax purposes. Given the significant lack of buyers for higher end homes, there simply is no market for a \$6.2 million home in West Fargo.
5. **Sales Ratio** - Finally, market value does not necessarily reflect assessment equality within the County or the State if the sales ratio within the jurisdiction of similar properties is less than 100%. For instance, it is clear that the valuation of many homes for purposes of taxation are set at approximately 70% of the actual market value. This is common in high value homes. Our appraiser noted that after identifying "market value," you must look at what is fair and equitable to the homeowner based on what other nearby landowners are paying in

taxes. Our appraiser will identify numerous situations on similar high value homes where the taxation level is routinely set at much less than 100% of market value. This justifies a further reduction to be fair and equitable. One or two property owners should not be picked out for higher valuations and taxation simply because they are affluent or because they drew the ire of the City by challenging special assessments or valuations.

6. ***The City Swaps Out Numbers to Justify its Overall Value.*** The City’s handling of this appeal underscores its “end justifying the means” approach to valuing the Tevye property. When Tevye first appealed, the City’s valuation reflected \$157,200 for land and \$6,068,300 for improvements, for a total of \$6,225,500.

Real Estate Assessment and Taxes						
Tax ID	Land	Improvements	Other	Total Assessment	Tax Rate	Taxes
02-4955-00010-000	\$157,200	\$6,068,300	\$0	\$6,225,500	309.1200	\$86,599
Totals	\$157,200	\$6,068,300	\$0	\$6,225,500		\$86,599

At the same time, Tevye’s neighbors (“Svalesons”)¹ appealed their valuation, which jumped from \$1.9 million to \$2.6 million in 2022, based, purportedly on a dramatic increase in their land value during the reassessment. When the neighbor first called Nick Lee, the City Assessor, to see if there was some mistake, Lee advised that he could blame his neighbor (Tevye), since Tevye’s owner was alleged to have overpaid for other parcels adjacent to Tevye’s house, which Lee suggested increased Svaleson’s taxable valuation by \$670,000 in one year. Interestingly, the City did not increase Tevye’s land value, but kept the land value at \$18,000 per acre for Tevye and increased the neighbor’s land value by approximately \$95,000 per acre, a \$670,000 increase for approximately 7 acres. This shows that there is no basis to some of the assessments, when neighbors are inequitably and arbitrarily assessed. This was all discussed at the City Board of Equalization Hearing in April 2022.

When the City finalized its Assessments in April 2022, the City Assessor modified the valuation for Tevye, from \$6,209,100 down to \$6,196,600. In the explanation, it appears that the City Assessor simply shifted his numbers around, now showing a land value of \$872,200 (up from \$157,200) and improvements of \$489,000 and \$4,835,400. The Assessor dramatically increased its land calculation and decreased its improvement calculation, basically borrowing from one category to the other, with

¹ Michael Svaleson and Deanne Schatz Svaleson are also appealing their valuation to the State Board of Equalization.

a slight \$12,500 reduction. One can assume the values were adjusted since they otherwise provided Svalesons with a great argument of disparate treatment of neighboring land values. In effect, the change was more for cover on their defense of another property's challenge, rather than reflecting a meaningful change in the "market value," which is supposed to be the basis of the analysis. This is simply arbitrary and does not provide any reflection of market value for either Tevye or Svaleson.

Argument

Legal Analysis

The NDCC grants the State Board of Equalization the power to equalize excess individual assessments if the property owner appeals either by attending the annual meeting, sending a representative, or mailing the basis of their objection. N.D.C.C. § 57-13-04(3)(a). In this case, Tevye also fulfilled the procedural requirement of first appealing to both the West Fargo and the Cass County Boards of Equalization.

Property taxes must be based on the actual market value for property: what a willing buyer would pay to a willing seller if the property was listed on the market. *Jefferson Apartments*, 2020 ND 2104, ¶ 12 (explaining what "true and full value" actually means). "All assessments of any taxable property in excess of the full and true value in money are subject to correction and abatement and refund. . ." N.D.C.C. § 57-23-01. The Board may abate or refund, in whole or in part, any assessment or tax upon real property when the assessment on the property is invalid, inequitable, or unjust." *Dakota Northwestern Assoc. Ltd. Partnership v. Burleigh County Board of County Comm.*, 2000 ND 164, ¶ 9 (citing N.D.C.C. § 57-23-04(1)(h)).

The City made no change in value to the land from 2019 to 2021 (\$157,200) but increased the value of the buildings located on the Property from \$2,439,700 in 2020 to \$6,068,300 in 2021, representing an increase of \$3,628,600, well over twice the prior year's valuation. This dramatic increase in value is not accurate based on Tevye, LLC's appraisal of the Property. The 2022 true and full value must be drastically reduced and payment for 2021's assessment should be abated because the City's assessment is inequitable and unjust.

In the present case, it is clear that the City dramatically inflated the assessed value of the Property well beyond its true and full value. The City Board of Equalization focused on construction costs and used calculations involving the extremely high cost per acre for new vacant development land in West Fargo as the basis for the incredibly high value assessments. While the market for new vacant development land is certainly high in West Fargo, that does not correlate dollar per dollar with Tevye's 8 acre parcel, which is undisputedly not going to be developed as bare land. The

appropriate inquiry is, in totality, what a willing buyer would pay to a willing seller for this property on the open market.

Appraisal Analysis

I asked the City to provide all documentation that supports their valuation, but received nothing until the day of the Board of Equalization hearing. There are no comparable sales in this market that would support a \$6.2 million value. One of the City Assessors advised that they have a computer model that generates the value based upon a mass appraisal and computes a valuation based upon inputs across the City. I understand how mass appraisals are created, and would suggest that the computer program may work great for homes on 1/8 to 1/2 acre lots with 1200 square feet to 5500 square feet but the numbers appear to have become grossly skewed with larger lots and larger properties. Either that, or there has been some spot assessments whereby the value of this property has been intentionally elevated far in excess of what would be expected with the mass appraisal input. In short, the mass appraisal system cannot address outlier properties with higher values, leading to an arbitrary valuation of Tevey far in excess of what the market would bring if the house was listed for sale.

Regardless of how the City's computer model or assessor set a \$6.2 million valuation on the Tevey house, that does not mean there is any willing buyer in the market that would ever pay \$6.2 million for the house if it was for sale on the open market. With high value homes, individuals can choose to upgrade their features to suit their personal tastes, investing whatever amount they wish, while understanding they may not get their investment out when they sell it. The market value is not reflective of how much money is invested when constructing a house; it is simply a reflection of what a willing buyer would pay for it if it were for sale. There is an incredibly limited market for homes above \$1 million, with no evidence of any market for homes above \$3.3 million. It is harder to identify a market value for new construction given the lack of sales price history, so appraisers identify similar properties and use sale prices with a willing buyer and willing seller to establish the market value.

In order to obtain a realistic view of what the market would be for this Property, I hired two local appraisers to conduct an appraisal. It is noteworthy that I sought out reputable appraisers, who the City of West Fargo often rely on, to make sure we are using appraisers who know the local market and are trusted for their knowledge and valuations. I specifically did not want a Minneapolis appraiser who may not receive the same level of credibility or deference by local Board of Equalization bodies. Since there are few comparables within West Fargo, I asked the appraisers to conduct a new, broader appraisal, which analyzes comparable properties from nearby jurisdictions. The appraisal is not complete yet, but will be submitted when we appear for the August 9 hearing.

Based on the appraisal of the Property by GEB Appraisals & Triebwasser Appraisal Service, LLC Joint Venture (hereinafter “GEB”), the true and full value of the Property is \$3,470,000. This Property has two houses on it, the original 2,232 square foot, three bedroom house built in 1996, and the new high value home built on the remainder of the parcel. There are not many comparable sales with two residences on one parcel, so the appraisers essentially split the parcel in two and valued the two homes separately to capture the value. The older home, with 3.9 acres of property was appraised at \$820,000. The High Value Home, with 4.88 acres of property was appraised at \$2,650,000. When added together, the Property value is \$3,470,000 according to these appraisers.

The appraisals utilize the two commonly accepted methods for determining property value: (1) the Sales Comparison Approach and (2) the Cost Approach. Each method returned a vastly valuation lower than the City’s assessment value.

I. Sales Comparison Approach

Under a Sales Comparison approach, GEB analyzed what a rational buyer seeking to pay no more for the Property would seek in comparison to property with the same quality, utility, and perceived benefits of ownership. This approach studies the market in which the Property competes and examines comparable sales, contracts for sale and current offerings. Additionally, the method analyzes the quality of transaction, the most meaningful unit of value for the Property, and comparable sales adjusted to equate with the Property.

Reviewing approximately fifteen (15) properties, the appraisal identified five comparable properties within the same market. As the Property is considered a high-value residential property based on market value and replacement costs, GEB made adjustments to take into account equivalent high-valued homes in the metro area. I will provide additional analysis of the comparables at the hearing, once the appraisal is finalized.

As a primary problem with West Fargo’s analysis, the City relied on sales that are not valid comparables. The assessor chose several new home sales that were sold from the custom builder to the client. In many instances, the cost per square foot is quite high for these high level custom homes based upon what a homeowner wants to include in their custom home. That is not an indication of market value or what a willing buyer would pay if the home was on the market. To exemplify market value, one high level existing home at 3838 2nd Street East sold for \$249/square foot in an arm’s length transaction. This is only one of two true arm’s length sales over \$1m in West Fargo within a two year period, which truly underscores the lack of buyers seeking homes over \$1 million on the market.

Resale			
02-5151-00075-000			
	Address:	3838 2 ST E	
	Sale Date:	11/22/2019	\$/SF
	Sale Price:	\$ 1,932,629	\$ 299
	Year Built:	2009	
	TLA:	6,466	
	Amenities:	Unfinished Basement	
	Land ASD Amount	\$ 323,700	
	Indicated Building Cost	\$ 1,608,929	\$ 249
	Permit Amount	\$ 940,000	\$ 145

Yet, rather than focus on this sale, the City chose to rely on sales from custom home builders to their clients in the per square foot range of \$489, 581 and 395/sq feet as comparables for the valuation of the Tevye home. These are blatantly inappropriate sales and do not fit the definition of “arm’s length” transactions consistent with North Dakota’s definition of Market Value, as any credible, licensed appraiser would know. It is noteworthy that the City Assessors are not required to be licensed appraisers, which changes what they may rely on to try to determine “market value”. This is a fundamental and fatal flaw in the City’s valuation of the Tevye home. As an example of its inappropriate comparables, West Fargo used three new-home construction sales from custom builders to their clients with the price per square foot highlighted in green in the examples above and below. As you’ll notice from the box above, the price per square foot on the open market is vastly less than the cost per square foot to build these high end custom homes identified in the box below. The box below includes closing transactions from custom builders to their clients – none of which are arm’s length transactions, nor are they appropriate to rely on for valuation.

New Home Sales	
02-4912-00680-000	
	<p>Address: 533 LIZZIE PL E Sale Date: 2/14/2018 \$/SF Sale Price: \$ 3,545,942 \$ 514 Year Built: 2015 TLA: 6,897 Amenities:</p> <p>Land Sale Amount \$ 171,183 Indicated Building Cost \$ 3,374,759 \$ 489 Permit Amount \$ 1,565,000 \$ 227</p>
02-5838-00010-000	
	<p>Address: 318 50 PL W Sale Date: 2/19/2021 \$/SF Sale Price: \$ 3,326,867 \$ 625 Year Built: 2019 TLA: 5,323 Amenities: Outdoor Pool, Gym</p> <p>Land Sale Amount \$ 234,960 Indicated Building Cost \$ 3,091,907 \$ 581 Permit Amount \$ 2,000,000 \$ 376</p>
02-1491-00010-000	
	<p>Address: 124 BEATON DR W Sale Date: 6/12/2020 \$/SF Sale Price: \$ 3,097,893 \$ 456 Year Built: 2017 TLA: 6,789 Amenities: Indoor Pool</p> <p>Land Sale Amount \$ 418,966 Indicated Building Cost \$ 2,678,927 \$ 395 Permit Amount \$ 1,400,000 \$ 206</p>

If these new construction properties' values were adjusted using the 3838 2nd Street open market price per square foot instead of the "as constructed" value, the valuations would be dramatically less, respectively:

- \$1,717,353 instead of \$2,364,900 (2022 WF valuation)
- \$1,325,427 instead of \$2,768,700(2022 WF valuation)
- \$1,690,461 instead of \$3,008,400 (2022 WF valuation)

West Fargo attempts to justify its incredibly high valuation of the Tevye home by using the builders' final costs to their clients as comparables. In reality, this review of the City of West Fargo's assessment program should evidence that its process is fundamentally flawed, resulting in the excessive valuation of many higher end homes that use these types of sales as comparables to justify higher values on other higher end homes. This is grossly erroneous and has inappropriately skewed the entire market of higher end home valuations in West Fargo. The City has created a self-perpetuating cycle of over assessment.

Another fundamental flaw in the City of West Fargo's rebuttal report is the extreme level of "adjustments" that are applied to comparables. At some point, a comparable sale ceases to be a comparable sale when the overall value is increased by \$2.3 million to \$3.3 million over the actual sales price as an "adjustment" by the City Assessor. The incredible level of unwarranted adjustments in the highlighted columns below strain reason. For example:

PIN 02-5151-00075-000 Address 3838 2 ST E WEST FARGO  LOT 7 & 8 BLK 1 RESERVE AT OSGOOD				PIN 02-4912-00680-000 Address 533 LIZZIE PL E WEST FARGO  LOT 34 BLK 3 SHADOW CREEK 3RD			
Cd/Rec	D 021	1577769		Cd/Rec	D 013	1531683	
Analysis info	04/27/2022	/ 0.00% adj/mo		Analysis info	04/27/2022	/ 0.00% adj/mo	
Sale Date/Amt	11/22/2019		\$1,932,629	Sale Date/Amt	02/14/2018		\$3,545,942
Time Sale Adj	0 mo /Adj	\$0 per mo	\$0	Time Sale Adj	0 mo /Adj	\$0 per mo	\$0
Adj Sale Amt			\$1,932,629	Adj Sale Amt			\$3,545,942

[Segments removed in the table in an effort to summarize]

Grade/Mult.	E+50 / 5.070	\$1,643,821	\$3,770,326	Grade/Mult.	E+40 / 4.730	\$1,955,563	\$3,458,584
Phy. Depr.	8%	-\$163,817	\$98,650	Phy. Depr.	3%	-\$74,395	\$9,228
F/E/Othr	0%/5%/0%	-\$94,195	-\$1,209,041	F/E/Othr	0%/5%/0%	-\$120,272	-\$1,182,963
Bldg Extras	0	\$0	\$64,582	Bldg Extras	1	\$119,864	-\$55,282
Det. Garages	0 SF	\$0	\$0	Det. Garages	0 SF	\$0	\$0
Yard Extras	0	\$0	\$51,008	Yard Extras	0	\$0	\$51,008
Ag Buildings	0	\$0	\$0	Ag Buildings	0	\$0	\$0
Map Factor	0.950	-\$89,485	-\$270,905	Map Factor	0.950	-\$114,259	-\$246,131
Mkt Influence	0%		\$0	Mkt Influence	0%		\$0
Total (without rounding)		\$2,023,911		Total (without rounding)		\$2,457,281	
Net Adjustments			\$3,374,031	Net Adjustments			\$2,940,662
Indicated Value			\$5,306,660	Indicated Value			\$6,486,604
	Appraised	B of R	State Equalized		Appraised	B of R	State Equalized
Land	\$323,700	\$0	\$0	Land	\$194,000	\$0	\$0
Dwelling	\$1,700,200	\$0	\$0	Dwelling	\$2,170,900	\$0	\$0
Impr.	\$0	\$0	\$0	Impr.	\$0	\$0	\$0
Total	\$2,023,900	\$0	\$0	Total	\$2,364,900	\$0	\$0

PIN 02-1491-00010-000 Address 124 BEATON DR W WEST FARGO  LOT 1 BLK 1 OAKWOOD BEND 2ND			PIN 02-5838-00010-000 Address 318 50 PL W WEST FARGO  LOT 1 BLK 1 THE WILDS 14TH				
Cd/Rec	D 013	1593999		Cd/Rec	D 013	1622950	
Analysis info	04/27/2022	/ 0.00% adj/mo		Analysis info	04/27/2022	/ 0.00% adj/mo	
Sale Date/Amt	06/12/2020		\$3,097,893	Sale Date/Amt	02/19/2021		\$3,326,867
Time Sale Adj	0 mo /Adj \$0 per mo		\$0	Time Sale Adj	0 mo /Adj \$0 per mo		\$0
Adj Sale Amt			\$3,097,893	Adj Sale Amt			\$3,326,867

[Segments removed in the table in an effort to summarize]

Grade/Mult.	E+40 / 4.730	\$2,135,040	\$3,279,107	Grade/Mult.	E+30 / 4.390	\$2,071,638	\$3,342,509
Phy. Depr.	2%	-\$54,149	-\$11,018	Phy. Depr.	0%	\$0	-\$65,167
F/E/Othr	0%/0%/0%	\$0	-\$1,303,235	F/E/Othr	0%/0%/0%	\$0	-\$1,303,235
Bldg Extras	0	\$0	\$64,582	Bldg Extras	2	\$74,726	-\$10,144
Det. Garages	0 SF	\$0	\$0	Det. Garages	0 SF	\$0	\$0
Yard Extras	1	\$47,463	\$3,545	Yard Extras	1	\$54,593	-\$3,585
Ag Buildings	0	\$0	\$0	Ag Buildings	0	\$0	\$0
Map Factor	0.970	-\$79,599	-\$280,791	Map Factor	0.920	-\$214,619	-\$145,771
Mkt Influence	0%		\$0	Mkt Influence	0%		\$0
Total (without rounding)		\$3,009,852		Total (without rounding)		\$2,830,819	
Net Adjustments			\$2,388,090	Net Adjustments			\$2,567,124
Indicated Value			\$5,485,983	Indicated Value			\$5,893,991

The State Board of Equalization is charged with making sure the jurisdictions within each county value similar properties on the same bases to ensure the valuations are equitable. N.D.C.C. § 57-13-04. In particular, I would draw your attention to a home located at 3253 Timber Creek Circle South in Fargo (see picture below). It sits on a one-acre lot with almost 9,800 square feet and an indoor pool, much like the Tevye property. The City of Fargo's 2022 certified assessment includes \$187,800 for land, \$1,382,800 in improvements, and a total of \$1,570,600 for a beautiful, high end custom home with an indoor pool. If you compare this home to the square footage analysis above, this home is valued by the City of Fargo at \$160/sq foot for this 2015 construction. It is currently listed on the market for \$2.8 million since the homeowner likely put more money into the home in construction costs. That said, the house has not sold, and the City of Fargo understands that construction costs are not the equivalent of market valuation.



I'll note that, while an indoor pool is considered a luxury and adds significant cost to a high end home, indoor pools do not actually add much value on the open market as indicated in the appraiser's comments below. It requires a buyer who wants an indoor swimming pool and is willing to pay the significant costs associated with heating and maintaining the space, moisture management systems, as well as significant service, upkeep and operation of the indoor pool. Few buyers are interested in taking on these obligations.

II. Cost Approach

Under the Cost Approach, the appraisal considered what a prudent, rational person would pay to construct a similar and competitive property as opposed to purchasing the Property at issue. This approach estimates: (1) the land value according to its highest and best use; (2) the replacement cost of the building and site improvements; (3) the physical, functional and/or external depreciation accrued to the improvements, and; (4) totals of the depreciated value of the improvements with the land value to reach the Property's true and full value.

The appraisers based the land valuation on comparable sales of equivalent property, and they evaluated four distinct listings consisting of parcels sized at one acre or more. GEB determined the equivalent value for the subject property ranged from \$110,000 to \$160,000 per acre, with a median value of \$149,952 per acre. In analyzing comparable property with equal weight, GEB arrived at a reconciled per acre value of \$140,000. With the Property constituting 4.88 acres total, this results in a reconciled true and full land value of \$685,000.

Utilizing an online subsidiary resource of Marshall Valuation Service, the appraisers used the Swift Estimator to estimate the replacement cost of the building and site improvements. They valued the subject property as separate components of land and building improvements in connection with the Property's external (economic), functional, and physical depreciation. Based on a determination

incorporating soft costs related to engineering, architectural design, permits, legal expenses, and developer's profit, the equivalent replacement cost of structures at their true and full value on a competitive property would be **\$2,700,000**. Importantly, this valuation includes a level of economic depreciation, which does not appear to be included by the City in their assessments.

I'll note that much was made of the fact that the building permit included a cost of construction in the range of \$4 million. Yet, if you review the custom home sales shown below, it is noteworthy that the building permit amount is much less than the actual sales price in many instances. In this case, the architect that submitted the building permit honestly reported what he believed to be a realistic improvement cost. That building permit value is not an indication of market value, as is evident from the comparables noted above that frequently reflect a building permit valuation that is half the actual construction cost at times. Again, the amount someone chooses to spend for features personally important to them do not carry through to market value. For the sake of illustration and not applicable to the Subject Property, if someone wants to add hand-painted silk wallpaper, wood ceilings made from fallen Old Growth California Redwood trees, and a gold-plated bathtub, a homeowner can add those luxury, expensive features. They will pay the cost without the expectation or reality they will see a return on that investment on the open market. The value is dictated by what a willing buyer is willing to pay for the same.

For that reason, there are various cost calculators that are used to determine cost valuation based upon features in a home. Our appraisers used a standard, reputable cost calculator to come up with a cost value to include in the appraisal. This information was presented to the City. The City used a much higher cost number (including over \$1.18 million more in costs) and failed to include economic depreciation in this cost analysis. My credible, licensed appraisers, who the City of West Fargo routinely relies on for projects, concludes as follows (RCN = Replacement Cost New):

Conclusion:

When the three section values are added together, the RCN is \$530,400.
When added to the RCN of the Main Dwelling, the total is \$3, 599,137
When the allocated site value of \$682,000 is added along with Engineering, Architectural, Permits, etc., the Total RCN **before** Depreciation is \$4,281,137.

This provides a major discrepancy with the City, which has concluded to a value of \$5,465,155 **before depreciation** (\$5,414,147 Building and site + Yard Improvements of \$51,008 = \$5,465,155) This is a discrepancy of \$1,184,018.

Depreciation

The next step in the process is to evaluate the Depreciation. WF uses lump sum values of 16% functional, 5% Economic and 0% Other, without explanation of their derivation.

Presumably "Other" in their grid is Physical Depreciation. Normal practice would indicate that a home of this quality and construction would have an estimated useful life of 100 years. Therefore, for each year that passes (without renovations or additions) the property would decrease in value by 1% per year. If that is normally the case, then legitimately a \$50,000 per year adjustment for physical depreciation alone would be present. Given the building has had three full years of occupancy, at least \$100,000 to \$150,000 should be attributable to physical depreciation alone.

Functional Depreciation is a deficiency in a property that makes it function differently than other building of its use, size, location, access, and other relevant factors. Most obvious in this case is the fact that it has 8 (we count 7) bedrooms for 12,464footnote Square Feet of TLA, or 1,558 SF TLA/BR or 458 sf/ room. Footnote we do not come up with 28 rooms The Comparable sales indicate the following:

Property ID	Total TLA	BR	Ratio SF-TLA/BR	% Difference
02-5151-00075-000	6,466.00	5	1,293.20	28.6%
02-4912-00680-000	6,897.00	5	1,379.40	20.6%
02-1491-00010-000	6,789.00	5	1,357.80	22.5%
02-5838-00010-000	5,323.00	7	760.43	118.7%
Subject	11,644.00	7	1,663.43	

We believe that the ratio of BR to TLA is an indicator of functional utility. If there is one bedroom for every 1,663 SF that is about 3-4 times what an average home in the market possesses. Even in comparison to the other high value homes considered it is 20-30% higher than most and over 100% more than one in particular.

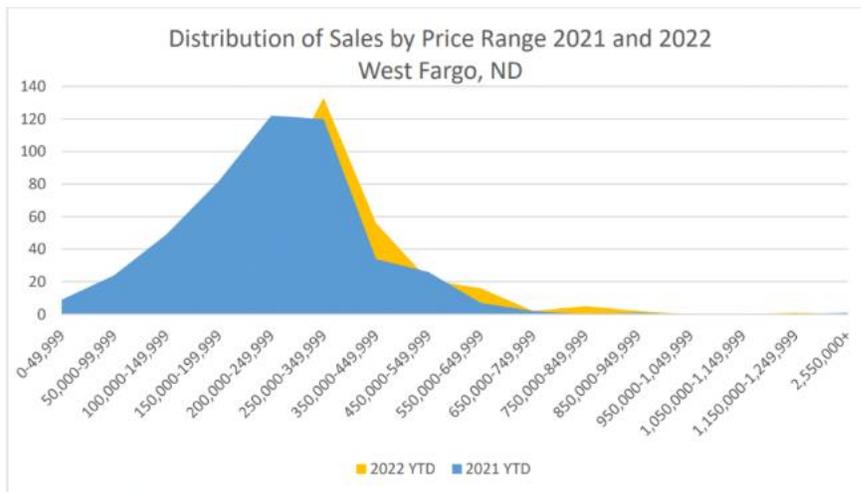
Even using the WF comps there should be roughly a 25% or more functional obsolescence factor rather than 16%.

The biggest issue in the depreciation is the fact that WF estimates a mere 5% economic depreciation without support.

In layman's terms, few buyers would pay this much per bedroom, so the value must be reduced by at least 25% of the cost calculation in order to find an appropriate fair market value. This is functional depreciation.

The concept of economic depreciation for existing homes on the market (as opposed to new construction ‘sales’ from the builders) in this real estate market is also graphically addressed by the appraiser, as follows:

As stated in our appraisal, comparative analysis tells us that only two homes above \$1 Million have sold over a 2-year period. The pool of buyers above \$700,00 is very thin indeed. Lack of buyers in any market means that supply and demand are inelastic and very subject to price swings. High demand raises prices and low demand lowers prices given an equal supply. When the supply is short to start with, it does not mean that price will go up unless more buyers are entering that segment of the market. That is clearly shown here by market evidence.



Source: FMRMLS 2021-2022 YTD

External Depreciation is proven by the difference in Replacement Cost New to Current sales price. All properties are subject to depreciation. Any year over year increases in value are due entirely to two factors.

1. The underlying value of the site goes up as development costs increase
2. The RCN of the building goes up because of increasing prices of building materials.

By analyzing current data for a recently constructed home where RCN is known or can be closely estimated, the breakdown of physical, functional, and economic depreciation can be estimated.

In the present case we estimate 3% physical depreciation using the age-life method. We estimate functional depreciation at 25%. The difference in RCN minus current sales price is an indicator of overall depreciation.

The City of West Fargo Assessor entirely misses the component of economic depreciation where large spaces with limited utility are tailored to specific homeowners, like the indoor pool and sports court, reduce the property’s value. The City includes the cost of the sports court and indoor pool space directly in the cost calculation without recognizing a devaluation due to the fact they are

unique features that few buyers actually want. As an example, Commissioner Sherling stated at the Cass County Commission meeting that she thinks an indoor pool is a negative, and she would not want one in her home. See ([Cass County Commission Recording - June 20, 2022](#)) at 1:02:00. In a forthcoming report, GEB summarizes this concept as follows:

We note that [sports court and an indoor pool] are considered a luxury and properties that have them are unique in the market. This lack of buyer response to these features is a force outside of the property that is captured as external depreciation. To the extent that a property conforms to buyer expectations in the market, features of a property will have contributory value. When features of a property greatly exceed the expectations of buyers, then the buyers typically will only pay a nominal or no additional amount for the presence of those over-improvements. We believe that the value of the property as-is and as of the date of value is based upon the dwelling with a minor contributory value for the gym and swimming pool that is reflective only of the square foot value of the dwelling plus land, plus the additional site improvements.

As such, the City erroneously included significant costs associated with the construction of these unique improvements, without factoring a significant amount of external depreciation as a result of lack of buyers seeking these features.

The appraiser conducted an analysis of one of the two valid sales of over \$1 million, then compared it to the Subject. A Summary of pertinent information and excerpts from GEB's analysis are as follows:

Resale	
02-5151-00075-000	
	Address: 3838 2 ST E
	Sale Date: 11/22/2019 \$/SF
	Sale Price: \$ 1,932,629 \$ 299
	Year Built: 2009
	TLA: 6,466
	Amenities: Unfinished Basement
	Land ASD Amount \$ 323,700
	Indicated Building Cost \$ 1,608,929 \$ 249
	Permit Amount \$ 940,000 \$ 145

Sale Analysis of 3838 2nd Street E, West Fargo, ND

Our analysis of that sale indicates the following.

Replacement Cost New as of the date of value, of the sale 11/22/2019, was \$1,902, 289 with a land value (developed by comparison) of \$6.00/ sf. X 58,000 sf = \$348,000 for a total estimated value of \$2,250,289. The building permit at 01/05/2010 was \$940,000. It was assessed at completion in 2011 at \$1,447,900 or \$223.92/sf. This would amount to an assessment to Value Ratio of 64.3%.

As of the date of sale the property was assessed for 2020 at \$1,844,700. It sold for \$2,490,000 or a sales ratio of 74%.

Further allocation of the sales price of \$2,566,000 with special assessments allocates to

\$2,556,000
-\$76,000 Specials
-\$580,000 Land Value (The increased value of the land plus site improvements since development @ \$10.00/sf)
= \$1,900,000 Residual Building Value
Or \$293.84/ sf

If we were to keep it simple and merely apply the \$300/ sf value of this property at the sale to the subject at WF square footage of 11,644 sf, then the assessed value for ad valorem taxation would be \$3,493,200. Adding in the estimate of the \$820,000 for the additional dwelling, metal building and site of the parcel brings us to \$4,313,200. This is still a difference of \$1,883,400 from the revised assessment of \$6,196,600. This seems to be the amount of over-assessment from a simple assessment comparison standpoint.

When considering physical functional and economic depreciation of this sale, CoreLogic-SwiftEstimator concludes to RCN less normal physical and functional depreciation of \$2,503,269. This residual is \$285.44/ SF

Comparison to the Subject Property

A direct application to the subject would indicate a total market value of \$3,323,663.36 without adjustment for the Gym and Swimming Pool which are not included in square footage. If the Additional Dwelling, Building, and site are added to this to arrive at the total parcel valuation, then the estimated market value increases to \$4,143, 663.

Assessments typically show little to no value applied to Swimming Pools and Gymnasiums in this market and this factor is not proven in the WF analysis.

To simply add an additional \$2,052,000 to value for these remaining items is unsupported in this analysis.

Considering that the other High Value homes are seldom assessed at market value upon sale, an additional Sales Ratio adjustment would be appropriate.

An adjustment of 85% would indicate a value of \$3,522,113 without consideration of value for the gym and swimming pool.

Our supported value for the Gym and Swimming Pool by CoreLogic-SwiftEstimator that the value is no more than \$582, 792 without consideration of the Economic Depreciation that the market experiences for these two amenities.

There is not a lot of good data available on the value of swimming pools and gyms in the market, but we believe them to receive at least a 40% discount of economic depreciation over and above the 7.15%

indicated from Swift Estimator. This would reduce the contribution of these two amenities to \$349, 675, Say \$350,00.

In conclusion the estimate of value to provide equitable assessment of the subject property should likely be

Main Dwelling, Accessory Dwelling, Metal Building and Site	= \$4,143,663
Estimated Contributory value of Gym and Pool	= \$ 350,000
Total Estimated Fair Market Value	= \$4, 493,663
Less adjustment for Sales Ratio at 85%	= (\$ 670,050)
Estimated Equitable Assessed Value of the Subject	= \$3,823,663

Rounded to \$3,825,000 of which \$1,000,000 is land and \$2,825,000 is building improvements. A value of \$328.50/ square foot.

We respectfully request that the unsupported assessment of the subject property of \$6,196,000 be reduced by the amount of overassessment in the amount of \$2,371,000. This 38% over-assessment is unsupported by market evidence.

Alternative Relief

If you will not abate Tevye's inflated assessment based upon the credible and unbiased appraisal of two reputable appraisers, N.D.C.C. § 57-13-04(8) provides that the State Board of Equalization may order a new appraisal if the local subdivision did not assess the property according to the law. Since West Fargo did not utilize market value to reach its assessment, the State Board of Equalization should order a new appraisal. There is simply too many questions surrounding the City Assessor's

approach to valuation, including swapping numbers from improvements to land in order to be more consistent with the neighbor's challenged valuation. After the State Board of Equalization orders a new assessment, the relevant county commission appoints a special assessor. N.D.C.C. § 57-14-08(2). As I discussed earlier, my appraisers frequently perform appraisals for the City of West Fargo. Thus, my appraisers are the ones that the Cass County Commission would likely select as credible, local appraisers. Because this method creates needless expense and inefficiencies, this Board should simply adopt the GEB's appraiser's well supported valuation.

CONCLUSION

This Property is considered a high-value residential property with a very limited market for potential buyers, so it takes longer to attract qualified buyers. As another limiting factor, most buyers lack the ability to obtain financing for such a high value home. The comparable sales identified in the appraisal reflect that some of the high value homes have taken well over a year on the market to sell, given the lack of buyers at this level. As previously determined by the North Dakota Supreme Court, if a property cannot be sold for the assessed value, then the market value (synonymous with the "true and full value") of the property must be less than the assessed value. *RFM-TREI Jefferson Apartments*, 2020 ND 204 at ¶ 14. Assessments which exceed the true and full value of a property require abatement or reduction of the property's assessed value. *Id.* Where a Board acts contrary to that directive, its acts are considered arbitrary and unreasonable. *Id.* In short, the City cannot use a computer model generated tax assessed value that is higher than the market would justify. The attached appraisal carefully walks through the factors that lead to a value on this parcel, in far more detail and targeted specifically to this home as opposed to the limitations created by using a mass appraisal process (which is totally understandable for the City to use in general).

The City's valuation does not reflect what a willing buyer would pay a willing seller for the Property, particularly in the West Fargo market. The City's valuation should not be adopted by the Board, and a downward correction is required.

While Tevey, LLC is not aware of what methodology the City used in reaching its true and full value, the City should not rely on building cost, permit values or prior sales information in reaching its determination. A builder's initial estimate on the cost of construction is not an accurate representation of the true and full value or market price of the Property upon completion. Clearly, moving hundreds of thousands of dollars from the "improvement" to the "land" category of the City's valuation without any supporting information is arbitrary and should call their process into question.

Tevey, LLC requests the Board consider the attached appraisal, find that the true and full value of the Property is \$3,470,000 for 2022, and abate the taxes for 2021 accordingly.

August 3, 2022
Page 20

Sincerely,

A handwritten signature in black ink that reads "Tami Norgard". The signature is written in a cursive style with a large, sweeping initial 'T'.

Tami Norgard