



and my duties included enforcement of the statutory obligations/duties imposed on all Minnesota assessors under Minnesota Stat. § 273.12 to determine assessments based upon sales of similar/comparable real property. Since then, I have continued to deal with the requirements imposed by the statute during my tenure as a:

- Property Tax Consultant at Hart Property Consultants (2005 – 2013);
  - Senior Managing Consultant at Paradigm Tax Group (2014 – 2017);
  - President & CEO at USAPTA, Inc. (2017 - Present).
4. Appraising is often called “half science and half art-form”. The reasoning behind this statement is that when determining an opinion of value in the fee simple estate, the appraiser must first look to the real estate market (a group of potential users of a property) to see what potential users would pay to own or lease the property being appraised. The appraiser analyses all market data (Science) to determine the best data to use in estimating the fee simple market value of the property. The appraiser then adjusts the market data to the subject based on differences between the two real properties to estimate a most probable sale price for the property being assessed (Art-form).
  5. In my training both as an appraiser and as an assessor, I was taught that the appraiser must always follow the market data and allow the data to demonstrate the value. I was taught that having a preconceived notion of value and ignoring what the data was telling me was both inaccurate and violating the statutory duties imposed on assessors under Minnesota Stat. § 273.12.
  6. The City of Coon Rapids and Anoka County were provided much market data by Menard, Inc. The fee simple market data provided to the city and county included several improved sale transactions in the immediate area, a study demonstrating the

effect of use restrictions on mega big-box properties, appraisals of like kind properties, and USAPTA charts showing the county's overall assessed values /SF on mega big box properties vs. the average fee simple market sale price / SF using sales that the Minnesota Tax Court affirmed in a previous Menard property tax case. I am attaching the market data/unequal assessment studies presented to Anoka County assessors/lawyers as Exhibits A & B to this affidavit.

7. To date, the assessors/lawyers in charge of the assessments for the Coon Rapids property have never indicated a willingness to consider either the actual market sales for properties similar to the Menard store, much less that Anoka County continues to assess the Coon Rapids Menard store at more than 200% of the Minnesota Tax Court's most recent decision regarding a very similar property in Cottage Grove, Minnesota.
8. I have a concern at the appearance that several Minnesota assessors, including those in Anoka County, are not considering market data when assessing mega big box properties. Instead they appear to maintain and defend the assessments regardless of the available market data. Again, my assessment and appraisal training strictly prohibited this behavior, since disregarding what the market is telling you hinders the appraiser from estimating the fee simple value and violates the duty to assess property based upon its sale value. Again, following the market data is the benchmark for enforcing an assessor's basic duty to determine market value by giving due weight to sales of comparable properties under Minnesota Stat. § 273.12; and is a mandatory assessment requirement under Minnesota case law and generally-accepted assessment practices.
9. Some assessors have argued they don't believe that the data provided to them is good market data, even though valuation experts have verified the data and the Minnesota

Tax Court has affirmed this data is supportive of what the market would bear if the property sold. One Minnesota assessor recently informed me I “was crazy” if I thought that assessors would consider what the Minnesota Tax Court’s decisions have said about this property type.

10. When ample data is provided demonstrating that a property is over-assessed, it is the duty of the assessor to review this data. As a general practice, when I worked in the assessor’s office, I would review any data provided by the petitioner with doing my own research. At that point I would either negotiate a settlement or I would provide the taxpayer with a counter argument and provide the taxpayer with any data I could legally share so they would understand how I was arriving at my estimate of value. The lack of ANY reliable fee simple data from ANY assessor I have discussed this property type with is troubling.
11. While Anoka County was provided much market data, they served Menard with wide-ranging discovery. While this is an appropriate action of the county attorney, data requested should apply to market value. As an assessor, I had been in more than one seminar where Minnesota Tax Court judges, various county attorneys, and other assessors reminded us that discovery should never be used punitively. I was taught that serving discovery was acceptable, but requesting data that did not pertain to the fee simple market value of the subject was unacceptable. If the data requested would not be requested by any other appraiser or was not considered by the appraisal industry pertinent data to perform an appraisal, it should not be requested. Requesting other data could not lead to the answer we were solving for – fee simple market value.

12. In the Anoka County Coon Rapids case, the county has been requesting proprietary data having nothing to do with the fee simple market value. Expense generated by a business, real estate values used for insurance, bank loans, or gross sales of a business cannot be helpful in determining what an unrelated user would pay for the real estate, yet Anoka County has been demanding this data and apparently is attempting to persuade the Minnesota Tax Court that the requested data can somehow help them determine fee simple market value of real estate: Even though they don't request it in the normal assessment process, nor does any fee appraiser I have ever known even need such data related to the business of the tenant and not the value of the real estate housing the business. As an assessor I never required a taxpayer to produce data useless in determining a fee simple valuation of a property, both because it was unnecessary and because I had been specifically taught this practice was intolerable and unethical.
13. Part of the Department of Revenue's charge is to monitor the practices of local assessors to prohibit this sort of practice. As part of that duty, representatives from the state are assigned to jurisdictions and review assessments for accuracy. Part of this review involves looking at information pertaining to the sales of real estate. One duty of the assessor is to review all sales that occur in their jurisdiction to determine whether the sale should be a "good" sale for determining fee simple market data.
14. The assessor has a list of criteria provided to them by the state, but the assessor also must research to make sure they understand unique details of a sale that cannot be predicted. The state's representatives are to be familiar with valuation practices and court decisions to help them determine whether an assessment is valid. Based on the unequal assessment analysis USAPTA has done for big box stores in Anoka County,

the state's representatives are not adequately policing the assessors or are ignoring current market data, tax court decisions, and market behavior of the buyers and sellers of this limited market property type.

15. While working on Menard, Inc. appeals in the past few years, several assessors understood the market data and were willing to correct their assessments. With the decision issued by the Minnesota Tax Court in September of 2017 regarding the fee simple market value of the Menards in Cottage Grove, I thought that assessors would be more willing to discuss settlement. To the contrary.
16. Since that decision was released I could not settle a single mega big box appeal. I have been met with hostility and bulked up discovery requests. The appearance of this is purely retributive and again is unethical. When there is ample data to support market value it is incumbent on the assessors to use this data in determining the assessment of like-kind properties under Minnesota Stat. § 273.12 and generally-accepted appraisal principles.
17. Based on the analysis USAPTA performed for Menard demonstrating that assessments in Coon Rapids are more than double average sale prices for big box stores---combined with my personal experience in dealing with the assessors involved in making the determination not to reduce the Coon Rapid's assessment regardless of contrary court decisions---I am of the professional opinion the Coon Rapids case does implicate constitutional uniformity and equal protection concerns besides normal market value considerations. I also am of the professional opinion that delaying the trial of the Blaine property---a case in which these same infirmities are not present to the same degree---would be prejudicial to Menards and contrary to my understanding of the Tax Court's

basic rule enforcing its scheduling orders according to their terms unless “good cause” exists to alter them.

18. When a taxing authority is: (a) ignoring all market data; and (b) rejecting this court’s previous decisions, requesting this Court’s help in altering the scheduling order for the Blaine store appears to be little more than a litigation tactic designed to hide the obvious disparity which persists between the assessments given to the two stores by Anoka County.

FURTHER AFFIANT SAYETH NOT.

Dated: November 22, 2017

/s/ Michael Wedl  
MICHAEL WEDL

Subscribed and sworn to before me  
This 22nd day of November, 2017.

/s/ Kari Alstad  
NOTARY PUBLIC  
My Commission Expires: January 31, 2020

