



March Case Law Update March 25, 2009

Wisconsin Supreme Court

No planning related cases to report

Wisconsin Court of Appeals opinions

Property Assessment for Commercial Properties

[*Allright Properties, Inc. v. City of Milwaukee*](#) involved a challenge to the City of Milwaukee's assessment for general property tax purposes of \$10,115,000 for a parking lot near the entrance to General Mitchell International Airport. The City followed the Wisconsin Department of Revenue's *Wisconsin Property Assessment Manual for Wisconsin Assessors* and used the "income approach" and "cost approach" to value the property because the City's assessor could not find any recent sales of large parking lots. Allright Properties challenged the assessment arguing that the City failed to follow the *Property Assessment Manual*. Allright's appraiser based his assessment on the lease value of the property for a parking lot and arrived at a value of \$3,300,000. The Wisconsin Court of Appeals upheld the City's assessment finding that the City properly followed the *Manual* for assessing property when comparable sales are not available. The Court of Appeals also rejected Allright's argument that the City violated the uniformity Clause of the Wisconsin Constitution. Allright's property was assessed at \$25 per square foot while surrounding commercial land was assessed at between \$2.50 and \$4 per square foot. According to the Court of Appeals, uniformity requires that the evaluation and the rate of assessment of all properties be uniform: "We decline to mandate equality of land values for commercially zoned property."

The case is recommended for publication.

Democracy in Action: The Town Meeting

[*Town of Clayton v. Cardinal Construction*](#) presented the issue of whether a contract between the Town of Clayton in Winnebago County and a construction company for the construction of a fire station was void because the Town Board lacked the authority to contract absent approval by the town electors. Sections 61.10(2)(e) and (f) of the Wisconsin Statutes requires approval by town electors at a town meeting for the purchase of land and construction of buildings. On two occasions, the town electors voted down a proposal to buy land and construct a new fire station. Nevertheless, the town board chair advised the board that the board did not need elector approval. The Town Board then entered into an agreement with Cardinal Construction for the new fire station.

The Town Board was promptly voted out of office and was immediately notified by the new town board that the contract was cancelled. Cardinal Construction then sued the town to enforce the contract. The Court of Appeals held that the contract was not valid because the Town did not have the approval of the town electors as required by state law. The Town of Clayton has village powers.

The case is recommended for publication.