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June 28, 2017

Assembly Committee on Ways and Means  
Wisconsin State Legislature

*Sent Via E-mail*

**Re: COST's Opposition to Unsound Property Tax Valuation Proposals**

Dear Chair Macco, Vice-Chair Katsma, and members of the Assembly Committee on Ways and Means:

On behalf of the Council On State Taxation (COST), I am writing to express concern with A.B. 386 and A.B. 387, legislation that would inequitably subject certain types of business properties to artificially higher valuations compared to what the property would be valued using professionally accepted appraisal practices. This Committee should reject the unfair real property valuation changes proposed in the above referenced legislation.

**About COST**

COST is a nonprofit trade association consisting of approximately 600 multistate corporations engaged in interstate and international business. COST's objective is to preserve and promote equitable and nondiscriminatory state and local taxation of multijurisdictional business entities. COST's members conduct a significant amount of business in Wisconsin and its membership seeks to continue to have business property in the State valued on a "full value which could ordinarily be obtained therefor at private sale."<sup>1</sup>

**Fair and Equitable Property Tax System**

The COST Board of Directors has adopted a formal policy statement on Fair and Equitable Property Tax Systems.<sup>2</sup> That policy statement position is:

*State and local property tax systems must be fairly administered and tax burdens equitably distributed among taxpayers. A property tax system that is inefficient or that disproportionately falls upon business is not equitable and will negatively impact a state's business tax climate.*

<sup>1</sup> See Wisconsin Stat. § 70.32(1).

<sup>2</sup> COST's Policy Statements are available at: <http://www.cost.org/Page.aspx?id=3140>.

And specifically related to valuation methodology, the policy statement position is:

*A statewide valuation methodology that is conducted in accordance with Uniform Standards of Professional Appraisal Practice (USPAP) and updated on a regular basis to factor in changes in value, including depreciation and all forms of obsolescence, should be utilized.*

COST is very concerned about the negative ramifications A.B. 386 and A.B. 387 would have by altering Wisconsin's property tax law to bar appraisers, representing either side, from using nationally accepted appraisal practices to value business properties. These bills unjustly also do not account for valuation decreases that stem from the 2008 recession.<sup>3</sup>

### **Concerns with A.B. 386 – Comparable Sales**

Appraisers representing both the property owner and the government need to have full use of nationally accepted appraisal practices when valuing property to accurately ascertain its “full value” for property tax purposes. This legislation would unfairly restrict the use of the comparable sales approach if the property is vacant beyond a reasonable time or the seller places a deed restriction on how the property can be used by a purchaser. The impact a vacancy or deed restriction has on a comparable property are items that appraisers can address in their proposed valuations; it should not be dictated by unfair legislation limiting the use of the comparable sales approach.

### **Concerns with A.B. 387 – Above-Market Rental Rates**

In 2008, the Wisconsin Supreme Court correctly addressed the use of the income approach to value rental property and held that fee simple interest, upon which fair market value must be based, should reflect market lease rates, not actual contract rates, *see Walgreens Co. v. City of Madison* (752 N.W. 2d 689). Valuing and imposing a property tax on above-market rents subjects the property to taxation based on a financing value, not the fee simple interest value of the property which a willing buyer would pay. This proposed change to valuing above-market rents should be rejected for what it stands for—an unjust money grab by allowing local governments to overvalue property with above-market rents versus what the property would be valued for in the open market.

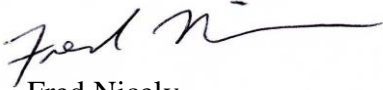
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<sup>3</sup> See Lev Borodovsky, “A Turning Point for Commercial Property,” Wall Street Journal, June 26, 2017 p. B10. A graph shows that from 2007 to 2009 there was a 40% drop in commercial real-estate prices.

**Conclusion**

COST believes the policies proposed in A.B. 386 and A.B. 387 should be rejected. This would also prevent potential challenges to the proposed changes under the State's uniformity clause. Please contact me with any questions regarding this testimony or COST's position in this area.

Sincerely,

A handwritten signature in black ink, appearing to read "Fred Nicely", with a long horizontal flourish extending to the right.

Fred Nicely

cc: COST Board of Directors  
Douglas L. Lindholm, COST President & Executive Director