

Benevolent Retirement Homes for the Aged

70.11(4d)

**Excerpt from the Wisconsin Department of Revenue's Training Program:
November 2009 Assessor School for 2010
November 11-20, 2009**

<http://www.dor.state.wi.us/training/assess/index.html>

70.11(4d) Benevolent Retirement Homes for the Aged

Overview

- Statute now separated from 70.11(4)
- Most exemption requirements unchanged
- Will require estimating value of each individual unit less value of common areas
- Only taxable if greater than 130% of average county residential parcel
- Statewide: Only a few units likely taxable

70.11(4d) Benevolent Retirement Homes for the Aged, cont.

Criteria for units to qualify for exemption:

- Property owned by non-profit entity
- Owner must be benevolent association
- Property used as a retirement home for aged
 - Property must not be used for profit
- Fair market value of individual unit (excluding common area) must be less than:
 - 130% of average Equalized Value of residential improved properties in same county for previous year

70.11(4d) Benevolent Retirement Homes for the Aged, cont.

Non-Profit

- Owned by non-profit entity = 501 (c) entity
- Individual units & common areas must be used for tax exempt purpose of organization
- No potential for entrance fee refund with incremental value (profit)
- Any spaces used by for-profit entities identified & excluded later in process

70.11(4d) Benevolent Retirement Homes for the Aged, cont.

Retirement Home

- Primary purpose: residential housing for aged
- Aged – Federal Fair Housing Act
 - “occupancy by at least 1 person 55 years of age or older per unit.”
- See 42 U.S.C. 3607(b)(2) & Wis. Stats. 106.50(1m)(m) & (5m)(a)

70.11(4d) Benevolent Retirement Homes for the Aged, cont.

Benevolent Association – Points to Consider

- Supreme Court: “[t]o help retired persons of moderate means live out their remaining years is ‘benevolent’ whether or not it is also considered, as we would consider it to be charitable”
 - Milwaukee Protestant Home v. Milwaukee, 41 Wis. 2d 284, 300 (1969)
- 70.11(4d): specifies moderate means via unit’s fair market value to determine if unit is exempt

70.11(4d) Benevolent Retirement Homes for the Aged, cont.

- Nursing homes & assisted living areas licensed under Ch. 50 are excluded & evaluated separately for taxability
- See 70.11(4)

70.11(4d) Benevolent Retirement Homes for the Aged, cont.

Send Request for Exemption (PR-230) IF:

1. Property previously taxable
2. Changes in operation taken place
3. Municipality is verifying all exemptions
4. Contact DOR w/questions

70.11(4d) Benevolent Retirement Homes for the Aged, cont.

- Fair Market Value of Units by assessor
 - valued without the common areas.
 - valuation approach? income? sales?
- Equalized Value of Residential Improved Parcels
 - Add residential land value per land parcel to residential improvement value per improved parcel for County
- Note: No longer a requirement that income be used for project maintenance or construction debt retirement

70.11(4d) Benevolent Retirement Homes for the Aged, cont.

- If 50% or more of individual units exempt:
 - qualifying individual units are exempt
 - common areas are exempt
 - land up to 30 acres necessary for location and convenience of buildings is exempt
- If less than 50% of individual units exempt:
 - qualifying individual units are exempt
 - common areas are taxable
 - land is taxable

70.11(4d) Benevolent Retirement Homes for the Aged, cont.

- Residential Equalized Value per parcel:
(2009 data will be posted February/March 2010)

2008 data:	<u>AVG</u>	<u>130%</u>
• Barron County:	\$137,041	\$178,153
• St. Croix County:	\$236,195	\$307,054
• Waukesha County:	\$312,916	\$406,790

Note – Units less than 130% figure are exempt.

70.11(4d) Benevolent Retirement Homes for the Aged, cont.

Valuation Steps

1. Determine value of unit exclusive of “multi-user” & “amenities” common areas
 - Recommend using comparative sales
2. Adjust for “residual common area” by subtracting 20% of value
 - Result = unit value
3. Determine if unit value is at or above 130% benchmark

70.11(4d) Benevolent Retirement Homes for the Aged, cont.

Valuation Steps

4. Value & assess land & improvements used "for profit," if any
 - e.g., land & improvements leased to for-profit salon
5. If 51% or more of units exceed 130% benchmark, then add value back for 3 kinds of common areas & assess common areas

70.11(4d) Benevolent Retirement Homes for the Aged, cont.

Valuation Issues

- Unique appraisal problem: Assessor must allocate out value of common areas
 - Recommend sales of properties with minimal / no common area
- Must apply hierarchy of value:
 - Retirement complex sales will have variations of common areas
 - Use of actual retirement home occupant payments will include variety of common areas
 - Sales or apartment rents: analyze to exclude amenities common areas

70.11(4d) Benevolent Retirement Homes for the Aged, cont.

Valuation Tips

- If most units under 130% benchmark
 - Value most expensive unit first
 - At or below benchmark = all units exempt & do not value
- If most units over 130% benchmark
 - Value least expensive unit first

70.11(4d) Benevolent Retirement Homes for the Aged, cont.

Identify Taxable Areas

- Identify areas owned or leased by for-profit entities – e.g. beauty salon, pharmacy
- Plus any parking, hallways, elevators & grounds supporting & exclusively used by for profit entity

70.11(4d) Benevolent Retirement Homes for the Aged, cont.

Identify 3 Types of Common Areas

- Multiple User
 - Shared with other exempt & nonexempt entities
 - e.g. community room
- Amenities
 - Only used by retirement home
 - e.g. swimming pool, clubhouse, fitness center
- Residual
 - Normal building spaces
 - e.g. halls, entryways, elevator

70.11(4d) Benevolent Retirement Homes for the Aged, cont.

Valuation Hierarchy

- Sale of subject retirement home
- Sale of comparable retirement homes
- Sale of comparables
 - e.g. apartments, adjusted for amenities & differing obligations to residents, or condos, adjusted for amenities & differing obligations to residents & differing rights of ownership

70.11(4d) Benevolent Retirement Homes for the Aged, cont.

Valuation Hierarchy, cont.

- Other information
 - Comparable apartment rentals
 - Income Approach - Actual cash flow
 - Entrance or endowment amount
 - \$\$ for endowment retained by home
 - Monthly fee related to use of unit (proxy for rent)
 - Less actual expenses of organization related to operation of retirement home & unique services (e.g. payment or subsidization of care/services)

70.11(4d) Benevolent Retirement Homes for the Aged, cont.

Comparable Sales

- Choose comparables without amenities (e.g. pool, tennis court, etc.)
- Not possible = Use marketplace to value retirement home amenities
 - Credible estimate of value to exclude amenity common areas from analysis

70.11(4d) Benevolent Retirement Homes for the Aged, cont.

Income Approach

- Most retirement homes best compared to more typical apartment rental situations, although condos may best in limited circumstances
- Use rental income & expenses of similar apartment complexes without similar amenities, to exclude value of amenities common areas

70.11(4d) Benevolent Retirement Homes for the Aged, cont.

Allocating Common Area Value

- Comparable has multiple use common areas or amenities common areas?
 - Exclude residual common areas from unit's value
- Comparable has multiple common areas & amenities common areas?
 - Exclude all 3 common areas from unit's value

70.11(4d) Benevolent Retirement Homes for the Aged, cont.

Allocating Common Area Value, cont.

- Based on DOR experience & expertise
- Substantial amount of property value (more than half) based on unit, but common area value is not trivial (e.g. less than 10%)
- Guideline: Residual common area contributes 20% of unit's market value