

STATE OF WISCONSIN

CIRCUIT COURT

MILWAUKEE COUNTY

WHITNALL-SUMMIT COMPANY, LLC
6737 W. WASHINGTON STREET, STE. 2220
WEST ALLIS, WISCONSIN 53214

PLAINTIFF,

CASE No. 2023-CV-4438
MONEY JUDGMENT: 30301
(OVER \$10,000)

v.

CITY OF WEST ALLIS
7525 W. GREENFIELD AVENUE
WEST ALLIS, WISCONSIN 53214

DEFENDANT.

AMENDED COMPLAINT

Plaintiff, Whitnall-Summit Company, LLC (hereinafter “Whitnall”) by its undersigned counsel, von Briesen & Roper, s.c., for its Amended Complaint against Defendant, City of West Allis (hereinafter, the “City”), alleges as follows:

NATURE OF ACTION AND PARTIES

1. This action is brought under Wis. Stat. § 74.37(3)(d) for a refund of excessive real estate property taxes to be imposed on Whitnall by the City for the tax year 2023, plus statutory interest, with respect to a parcel of real property located at 6737 W. Washington Street in the City (the “Property”).

2. Whitnall-Summit Company, LLC is a foreign limited liability company, authorized to operate in Wisconsin, with its principal office in Suite 2220 in the Property.

3. Whitnall is the owner of the Property and is responsible for the payment of real estate property taxes and the prosecution of property tax disputes involving the Property and is authorized to bring this action in its own name.

4. The City is a body corporate and politic, organized as a municipal corporation under Wisconsin law, with its principal office located at 7525 W. Greenfield Avenue, West Allis, Wisconsin.

5. The Property is identified on the City's tax records as Parcel Number 439-0001-031.

JURISDICTION AND VENUE

6. This Court has personal jurisdiction over the City pursuant to Wis. Stat. § 801.05(1).

7. Venue is appropriate in Milwaukee County pursuant to Wis. Stat. § 801.50(2)(a).

BACKGROUND FACTS

8. For 2022, property tax was imposed on property in the City at the mill rate of \$28.231353 per \$1,000 of assessed value. The 2023 mill rate is not yet known.

9. For 2019, the City and Whitnall agreed that the full value of the Property was \$57,892,000 and that the 2019 full-value assessment would be the same amount.

10. For 2023, the City's Assessor set the assessment of the Property at \$57,892,000, as of January 1, 2023.

11. Whitnall appealed the 2023 assessment of the Property by timely filing an objection with the City, pursuant to Wis. Stat. § 70.47(16), and otherwise complying with all requirements of Wis. Stat. § 70.47.

12. On April 26, 2023, the Board of Review waived the hearing and sustained the 2023 assessment at \$57,892,000, a copy of which is attached hereto and incorporated herein as Exhibit A.

13. Pursuant to Wis. Stat. § 70.47(8m), Whitnall has timely commenced this action within sixty days of receipt of the notice of hearing waiver.

14. Based on the City's 2022 tax rate and 2023 assessment of the Property herein described, the City will impose a property tax of \$1,634,369.49 on the Property. The exact proposed property tax for 2023 will not be known until the 2023 mill rate has been determined.

FIRST CLAIM FOR RELIEF
VALUE AND ASSESSMENT

15. The allegations of paragraphs 1-14 are incorporated as if fully realleged herein.

16. The value of the Property as of January 1, 2023 was no higher than \$51,300,000, which value was derived from an appraisal of the Property.

17. Based on the projected 2023 63.50% ratio, the asserted full value of the Property will be \$93,396,900, and the assessment will be \$57,892,000, instead of \$32,575,500.

18. As a result, the 2023 full value of the Property is excessive by approximately \$42,096,900 and the assessment will be excessive by \$25,316,500.

SECOND CLAIM FOR RELIEF
UNIFORMITY

19. The allegations of paragraphs 1-18 are incorporated as if fully realleged herein.

20. The 2023 general level of assessment for the City is projected to be 63.50%.

21. Properties valued by the Wisconsin Department of Revenue (hereinafter “DOR”) within the City will be assessed for 2023 at 63.50% of their full value and, will be assessed at no more than 63.50% of their full value, while the Property has been, and will continue to be valued and assessed at more than 100% of its full value and more than 100% of its correct assessed value.

22. The 2023 assessment of the Property is not uniform with the assessment of other properties in the City, and therefore the City has violated the Uniformity Clause of the Wisconsin Constitution, Article VIII, § 1.

23. The 2023 assessment of the Property should be equal to its final determined value multiplied by the 2023 general level of assessment in the City, to achieve uniformity with other city properties.

WHEREFORE, Whitnall requests that the Court enter judgment as follows:

A. For a determination that the 2023 assessment of the Property is not uniform with the assessment of other properties in the City and is in violation of the Wisconsin Constitution;

B. For an order directing the City to reduce Whitnall’s 2023 assessment to an amount equal to its full value multiplied by the 2023 assessment ratio and, if taxes are paid, for an appropriate refund.

C. For an award of all litigation costs incurred by Whitnall in this action, including the reasonable fees of its attorneys; and

D. For such other and further relief as the Court deems appropriate and just.

Dated at Milwaukee, Wisconsin this 28th day of August, 2023.

VON BRIESEN & ROPER, s.c.
Attorneys for Plaintiff

By: Electronically signed by Alan Marcuvitz
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City Clerk
City Clerk's Office
clerk@westalliswi.gov
414.302.CITY

OFFICE OF CITY CLERK
CITY OF WEST ALLIS, WISCONSIN

Wednesday, April 26, 2023 - **REVISED Monday, May 1, 2023**

von Briesen & Roper S.C.
411 E. Wisconsin Avenue, Ste. 1000
Milwaukee, WI 53202

RE: Notice of Decision:

**Whitnall Summit Co. LLC
City of West Allis Board of Review 2023 Property Assessment Objection Decision**

The City of West Allis Board of Review (BOR) convened on April 26, 2023, and approved the Assessor's request to waive the hearing for Objection to Real Property Assessment, allowing you to appeal directly to Circuit Court, pursuant to Wis. Stat. §70.47(8m) for the following parcel:

PARCEL #	PROPERTY OWNER	ASSESSED VALUE
439-0001-031	Whitnall Summit Co.	\$57,892,000

As a result, a hearing will not be scheduled before the BOR for your objections. By operation of law and pursuant to Wis. Stat. § 70.47(8m), the assessed values remain as identified above. The taxpayer has 60 days from the notice of hearing waiver in which to commence an action under §70.47(8m).

If you have any further questions, please send an email to clerk@westalliswi.gov.

Respectfully,

Rebecca Grill
City Administrator/Clerk

Delivered via email to craig.salzer@vonbriesen.com & alan.marcuvitz@vonbriesen.com