

FILED
08-16-2021
John Barrett
Clerk of Circuit Court
2021CV004934
Honorable Kevin E.
Martens-27
Branch 27

STATE OF WISCONSIN CIRCUIT COURT MILWAUKEE COUNTY

ARIA REALTY MITCHELL MANOR LLC
8150 Central Park Avenue
Skokie, IL 60076

Plaintiff,

v.

CITY OF WEST ALLIS
7525 West Greenfield Avenue
West Allis WI, 53214

Defendant.

Case No. _____

Case Code: 30301

SLH Services

Server SLH Services

Date 9-7-21 Time 11:50 AM

SUMMONS

STATE OF WISCONSIN:

To the above-named Defendant:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The Complaint, which is attached, states the nature and basis of the legal action.

Within twenty (20) days of receiving this Summons, you must respond with a written Answer, as that term is used in chapter 802 of the Wisconsin Statutes, to the Complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The Answer must be sent or delivered to the Court, whose address is: **Milwaukee County Clerk of Courts, 901 N. 9th St., Milwaukee, Wisconsin 53233**, and to Plaintiff's attorneys, whose address is **The Law Office of Kevin M. Scott LLC, 2665 South Moorland Road, Suite 200, New Berlin, Wisconsin 53151**. You may have an attorney help or represent you.

If you do not provide a proper answer within twenty (20) days, the court may grant judgment against you for the award of money or other legal action requested in the Complaint, and you may lose your right to object to anything that is or may be incorrect in the Complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future and may also be enforced by garnishment or seizure of property.

If you require assistance or auxiliary aids or services because of a disability, call 608-266-4311 (TDD 608-266-4625), and ask for the Court ADA Coordinator.

Dated this 13th day of August, 2021.

THE LAW OFFICE OF KEVIN M. SCOTT LLC

Electronically signed by Kevin M. Scott

Kevin M. Scott (SBN 1036825)

2665 S. Moorland Rd.,

Suite 200

New Berlin, WI 53151

Telephone: (414) 899-8273

Facsimile: (262) 785-1729

Email: kevin@kevinscottlaw.com

Attorneys for Plaintiff

FILED
08-16-2021
John Barrett
Clerk of Circuit Court
2021CV004934
Honorable Kevin E.
Martens-27
Branch 27

STATE OF WISCONSIN CIRCUIT COURT MILWAUKEE COUNTY

ARIA REALTY MITCHELL MANOR LLC

Plaintiff,

v.

CITY OF WEST ALLIS

Defendant.

Case No. _____

Case Code: 30301

COMPLAINT

Plaintiff, Aria Realty Mitchell Manor LLC ("Plaintiff") by its attorneys, The Law Office of Kevin M. Scott LLC, by Kevin M. Scott, and as for a Complaint against Defendant City of West Allis ("West Allis") alleges as follows—

PARTIES

1. Plaintiff is a foreign Limited Liability Company organized under the laws of the State of Illinois with a principal office address of 8150 Central Park Avenue, Skokie, IL 60076.

2. West Allis is a municipal corporation with a principal office located at 7525 West Greenfield Avenue, West Allis Wisconsin 53214.

VENUE

3. The events giving rise to this Complaint occurred in Milwaukee County, and the property that is the subject of this lawsuit is located in Milwaukee County. Therefore, venue is proper in Milwaukee County pursuant to Wis. Stat. § 801.50.

FACTUAL ALLEGATIONS

4. Plaintiff owns Meadowmere and Mitchell Manor, a retirement and assisted living facility located at 5301 W. Lincoln Avenue, West Allis WI 53219 ("Meadowmere").

5. The Meadowmere property is identified as tax parcel ID # 491-0016-001 (the "Meadowmere Property").

6. This is an action brought under Wis. Stat. § 74.37(3)(d) for a refund of excessive real estate taxes imposed on Plaintiff by West Allis for the year 2020, plus statutory interest with respect to the Meadowmere Property.

7. Plaintiff is responsible for the payment of property taxes to West Allis.

8. Plaintiff has the legal authority to prosecute this property tax dispute regarding the Meadowmere Property.

9. The aggregate ratio of property assessed in West Allis as of January 1, 2020 is 0.905004799.

10. For 2020 West Allis imposed property tax on the Meadowmere Property at the rate of \$27.904679 per \$1,000 of assessed value.

11. For 2020 West Allis assessed the Meadowmere Property at a market value of \$15,573,300.00, and a total value of \$14,093,800.00 (the "Assessed Value").

12. Attaches as **Exhibit A** is a true and correct copy of the "Assessor's Office Property Record" relating to the Meadowmere Property obtained from a search conducted on the West Allis website at http://apps.westalliswi.gov/property_search/search.aspx.

13. Plaintiff appealed the 2020 assessment of the Meadowmere Property by filing a timely objection with West Allis's Board of Review pursuant to Wis. Stat. § 70.47 and otherwise complying with all of the requirements of Wis. Stat. § 70.47, except Wis. Stat. § 70.47(13) (the "Objection").

14. On June 10, 2021, the Board of Review convened and approved West Allis's request to waive any hearing regarding the Objection, allowing Plaintiff to appeal directly to Circuit Court pursuant to Wis. Stat. § 70.47(8m)(the "Waiver").

15. Notice of the Waiver was provided to Plaintiff's agent via letter dated June 22, 2021, a true and correct copy of which is attached as **Exhibit A**.

CLAIM FOR RELIEF

16. West Allis has overvalued the Meadowmere Property as the Assessed Value is based upon the amount that Plaintiff paid for three separate retirement facilities.

17. The Meadowmere Property was purchased by Plaintiff and five other related limited liability companies (collectively, "Plaintiff") on December 17, 2020 from SPTMNR Properties Trust, a real estate investment trust organized under the laws of the State of Maryland ("SPTMNR")(the "Meadowmere Sale").

18. Via the same transaction and on the same date, Plaintiff purchased two other retirement and assisted living facilities located in Southeast Wisconsin from SPTMNR.

19. Attached as **Exhibit B** is a true and correct copy of the closing statement for the Meadowmere Sale.

20. The purchase price for all three facilities totaled eleven million five hundred thousand dollars (\$11,500,000).

21. The purchase price of the Meadowmere Property was three million eight hundred thirty-three thousand and three hundred thirty-four dollars (\$3,833,334).

22. The Meadowmere Sale was an arms-length, open market transaction.

23. The Meadowmere Sale has been classified as a useable sale by the Wisconsin Department of Revenue.

24. Attached as **Exhibit C** is a true and correct copy of the Real Estate Transfer Return for the Meadowmere Sale obtained by performing an RETR search on the Wisconsin Department of Revenue website at

<https://propertyinfo.revenue.wi.gov/WisconsinProd/search/commonsearch.aspx?mode=owner>

25. West Allis has improperly ignored the fact that the Meadowmere Sale was an arms-length, open market transaction.

26. West Allis has improperly ignored the fact the Meadowmere Sale has been classified as a useable sale by the Wisconsin Department of Revenue.

27. Based on a tax rate of \$27.904679 per \$1,000 of assessed value, the proper amount of property tax on the Meadowmere Property for 2020 should be no higher than \$106,967.96.

28. Instead, the Gross Tax imposed on the Meadowmere Property in 2020 was \$418,002.51.

29. As such, Plaintiff overpaid taxes in the year 2020 by at least \$311,034.55.

30. Upon information and belief, the Assessed Value is excessive compared other commercial property in West Allis, and violates Article VIII, Section I (the "Uniformity Clause") of the Wisconsin Constitution.

31. As a result, the tax imposed on Meadowmere for 2020 is excessive in the amount of \$311,034.55.

32. West Allis's position that the Meadowmere Property's market value is \$15,573,300.00 is an overassessment that constitutes a violation of the Uniformity Clause

and thus Plaintiff bears an unreasonably disproportionate share of taxes on an ad valorem basis.

33. Plaintiff is entitled to a refund of at least \$311,034.55 for tax year 2020, plus statutory interest.

WHEREFORE, Plaintiff respectfully requests that this Court enter an Order—

A. A determination that the Assessed Value of the Meadowmere Property for 2020 is no higher than \$3,833,334;

B. A determination that the correct amount of property tax on the Meadowmere Property for 2020 is no more than \$106,967.96;

C. Judgment in the amount of \$311,034.55 or such greater amount as may be determined due Plaintiff plus statutory interest;

D. An award of all litigation costs incurred by Plaintiff in this action, including reasonable attorney's fees; and

E. Such other relief as the Court determines to be fair and just.

PLAINTIFF DEMANDS TRIAL BY A 12-PERSON JURY

Dated this 13th day of August, 2021.

THE LAW OFFICE OF KEVIN M. SCOTT LLC

Electronically signed by Kevin M. Scott

Kevin M. Scott (SBN 1036825)

2665 S. Moorland Rd.,

Suite 200

New Berlin, WI 53151

Telephone: (414) 899-8273

Facsimile: (262) 785-1729

Email: kevin@kevinscottlaw.com

Attorneys for Plaintiff

FILED

08-16-2021

John Barrett

Clerk of Circuit Court

2021CV004934

Honorable Kevin E.

Martens-27

Branch 27

Home Real Estate Transfer RETR Search Historical Data DOR Website WI Counties

Transfer Return Full Legal Description

County: MILWAUKEE WEST ALLIS, CITY OF 5301 W. LINCOLN AVENUE AND 2330 & 2360 S. 54TH STREET, WEST ALLIS, WI 53219

Grantor (Seller)

Name: SPTMNR PROPERTIES TRUST Address: Two Newton Place, 255 Washington Stre Newton Massachusetts 02458

Relationship with grantee(s): Grantor type: Other Ownership interest transferred: Full Owner interest other note: Grantor retains the right: None Grantor rights other note:

Grantee (Buyer)

Name: ARIA REALTY MITCHELL MANOR LLC Address: 8150 Central Park Ave. Skokie Illinois 60076 Grantee type: Limited Liability Company Grantee certification date: 12/22/2020

Recording Information

County document number: 11059282 Date recorded: 12/22/2020 Volume/jacket: Page/Image:

Parcel

County: MILWAUKEE Property legal description: (short - first 200 characters) All of parcel 491-0016-001 in the WEST ALLIS, CITY OF 5301 W. LINCOLN AVENUE AND 2330 & 2360 S. 54TH STREET, WEST ALLIS, WI 53219 Section/township/baseline/ range/meridian: 11/6/21/E Subdivision or condo/lot or unit#/block: // Primary residence of grantee: No

Fee Computation

Total value of real estate transferred: \$3,833,334.00 Value subject to fee: \$3,833,334.00 Transfer fee due: \$11,500.20 Transfer fee exemption number: Personal property value excluded from total value: \$0.00 Property value exempt from local property tax: \$0.00

Tax Bill Mailing Address

Send tax bill to: Name: Aria Realty Mitchell Manor LLC Street Address: 8150 Central Park Ave. City, State Zip: Skokie, IL 60076

Transfer and Financing

Transfer type: Warranty/Condo Deed / Org Sale Transfer type other note: Conveyance document type: Warranty/Condo Deed Conveyance code other note: Conveyance date: 12/17/2020 Grantee financing: Conventional

Physical Description

Property type: Land and Buildings

1 of 1 Return to Search Results

Actions Printable Version

Reports

CSV Report

Go

Links

CSV Report Description



To go back, use 'Return to Search Results' above

Predominant use:	Commercial
Lot square footage:	0
Total acres:	8.5
MFL/PFC acres:	0
Feet of water frontage:	0
Number of units:	0

Agent and Preparer

Grantor agent:	Louis A. Monti, Esq., One Post Office Square, Boston, MA 02109
Grantee agent:	Daniel O'Brien, Esq., 200 Public Square, Suite 2300, Cleveland, OH 44114
Preparer name:	Louis A. Monti, Esq.

Weatherization

Subject to residential rental weatherization standards:	
Energy exclusion:	W-11

System Information


Recording information added on:	12/22/2020
Document locator number:	202011229975087
Previous document number:	


Municipal Assessor Information

Arm's length:	1 - Useable Sale
Primary class:	
Water type:	
Property code:	

Full Legal Description

PARCEL 1 All of Block 2, together with vacated alleys and vacated South 53rd Street in Mitchell Manor, a Subdivision of a part of the Northwest 1/4 of Section 11, Town 6 North, Range 21 East, in the City of West Allis, County of Milwaukee, State of Wisconsin. PARCEL 2 All of Block 3, together with vacated alleys in Mitchell Manor, a Subdivision of a part of the Northwest 1/4 of Section 11, Town 6 North, Range 21 East, in the City of West Allis, County of Milwaukee, State of Wisconsin.

Location  Google Map
2135 Rimrock Road
Madison, WI 53713

Contact Us
 Email: otas@revenue.wi.gov

Site Links
[DOR Website](#)
[Historical Data](#)
[WI Counties](#)
[Real Estate Transfer](#)

FILED
 08-16-2021
 John Barrett
 Clerk of Circuit Court
 2021CV004934
 Honorable Kevin E.
 Martens-27
 Branch 27



Commonwealth Land Title Insurance Company
 265 Franklin St., 8th Floor
 Boston, MA 02110
 Phone: (617)619-4800

Settlement Statement

Settlement Date: December 17, 2020
Order Number: BOS-360142
Buyer: Aria Realty Mitchell Manor LLC
 Aria at Mitchell Manor LLC
 Aria Realty Brookfield LLC
 Aria of Brookfield LLC
 Aria Realty Waukesha LLC
 Aria of Waukesha LLC
Seller: SPTMNR Properties Trust, a Maryland real estate investment Trust
 SNH WIS Tenant LLC, a Maryland limited liability company
Lender: Oxford Finance LLC, as Agent
Property: 5301 West Lincoln Ave and 2330 & 2360 S. 54th Street
 West Allis, WI 53219

 18740 W. Bluemound Road
 Brookfield, WI 53045

 1451 Cleveland Ave and 1457 Cleveland Ave
 Waukesha, WI 53186

Seller			Buyer	
Debit	Credit		Debit	Credit
		Sale Price		
	3,833,334.00	1. Purchase Price 5301 W Lincoln Avenue	3,833,334.00	
	3,833,333.00	2. Purchase Price 18740 W. Bluemound Road	3,833,333.00	
	3,833,333.00	3. Purchase Price 1451 and 1457 Cleveland Avenue	3,833,333.00	
		4. Deposits		500,000.00
		Prorations/Adjustments		
365,412.00		5. Real Estate Taxes West Ellis City Parcel ID: 491-0016-001 2020 Estimate		365,412.00
5,021.00		6. Personal Property Taxes West Ellis City Parcel ID: 26813 2020 Estimate		5,021.00
105,548.00		7. Real Estate Taxes Brookfield City Parcel ID: 491-0016-001 2020 Estimate		105,548.00
5,370.00		8. Personal Property Taxes Brookfield City Parcel ID: BR C 7709 2020 Estimate		5,370.00
69,511.00		9. Real Estate Taxes Waukesha City Parcel ID: Multiple 2020 2020 Estimate		69,511.00
4,284.00		10. Personal Property Taxes Waukesha City Parcel ID: 148920 2020 Estimate		4,284.00
21,621.38		11. Resident Trust Funds 1451 Cleveland Avenue		21,621.38
32,053.16		12. Resident Trust Funds		32,053.16

Settlement Statement

Seller			Buyer	
Debit	Credit		Debit	Credit
		Prorations/Adjustments (continued)		
		18740 W. Bluemound Road		
10,373.91		13. Resident Trust Funds 5301 W. Lincoln Avenue		10,373.91
4,852.26		14. December Rent 1451 Cleveland Avenue		4,852.26
10,571.32		15. December Rent 18740 W. Bluemound Road		10,571.32
51,679.07		16. December Rent 5301 W. Lincoln Avenue		51,679.07
75,000.00		17. RCAC Credit		75,000.00
		Loan Charges \$(8,529,831.56)		
		18. Principal Amount of New Loan		10,000,000.00
		19. Borrower Deposit		50,000.00
		20. Appraisal to Oxford Finance LLC, as Agent	12,750.00	
		21. Insurance Consultant to Oxford Finance LLC, as Agent	1,800.00	
		22. PCA, Phase I & Selsmic to Oxford Finance LLC, as Agent	6,750.00	
		23. Capital Improvement Reserve to Oxford Finance LLC, as Agent	286,000.00	
		24. Background Checks to Oxford Finance LLC, as Agent	3,300.00	
		25. Collateral Audit to Oxford Finance LLC, as Agent	5,500.00	
		26. Tax and Insurance Reserve to Oxford Finance LLC, as Agent	366,000.00	
		27. Oxford Facility Fee (Term & Revolver) to Oxford Finance LLC, as Agent	135,000.00	
		28. UKS Fees and Costs (Term & Revolver) to Oxford Finance LLC, as Agent	67,000.00	
		29. Reserve Regarding Meadowmere License to Oxford Finance LLC, as Agent	75,000.00	
		30. Real Estate Taxes Reserve to Oxford Finance LLC, as Agent	532,874.00	
		31. Interim Interest to Oxford Finance LLC, as Agent	28,194.44	
		Closing Costs		
		32. Survey Reports to Global Realty Services Group LLC Invoices: G4634639, G4634652, G4634653, G4636362	13,937.00	
		33. Zoning Report to Global Realty Services Group LLC Invoice: G4634828	2,363.00	
		34. Environmental Assessment to Global Realty	5,550.00	

Settlement Statement

Seller		Title and Escrow (continued)	Buyer	
Debit	Credit		Debit	Credit
		Version: ALTA Loan Policy 2006		
1,125.00		50. Settlement Statement Preparation & Escrow Fees (\$750 x 3)	1,125.00	
		51. Courier and Overnight Service Fee	125.00	
11,500.20		52. Deed Stamps- 1451 Cleveland Avenue		
11,500.20		53. Deed Stamps- 5301 W. Lincoln Avenue		
11,500.20		54. Deed Stamps- 18740 W. Bluemound Road		
		55. Estimated Recording and Service Fee (\$160 x 3)	480.00	
		56. Copies- (\$100 x 3)	300.00	
500.00		57. Search & Exam- 1451 Cleveland Avenue		
500.00		58. Search & Exam- 5301 W. Lincoln Avenue		
500.00		59. Search & Exam- 18740 W. Bluemound Road		
		60. Service Fee- 1451 Cleveland Avenue	150.00	
		61. Service Fee- 18740 W. Bluemound Road	150.00	
		62. Service Fee- 5301 W. Lincoln Avenue	450.00	
		63. Special Assessment Letters- 1451 Cleveland Avenue	255.00	
		64. Special Assessment Letters- 5301 W. Lincoln Ave	85.00	
		65. Special Assessment Letters- 18740 W. Bluemound Road	85.00	
		66. Specials Reordered 1451 Cleveland Avenue	255.00	
		67. Specials Reordered 5301 W. Lincoln Avenue	85.00	
		68. Specials Reordered 18740 W. Bluemound Road	85.00	
1,210,059.70	11,500,000.00	Subtotals	13,203,352.44	11,311,297.10
		Balance Due FROM Buyer		1,892,055.34
10,289,940.30		Balance Due TO Seller		
11,500,000.00	11,500,000.00	Totals	13,203,352.44	13,203,352.44

See signature page to follow

FILED

08-16-2021

John Barrett

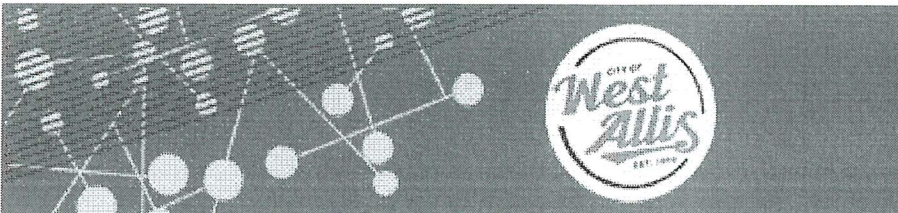
Clerk of Circuit Court

2021CV004934

Honorable Kevin E.

Marlens-27

Branch 27



Assessor's Office Property Record
Annual Commercial Assessment Record
 Parcel 491-0016-001 | 2330-2360 S 54 ST & 5301 W
 LINCOLN AVE

Show Current Assessor's Record
 Assessor's Property Report (PDF)



By State Statutes, this assessment is based on the condition of the property on January 1 of the year the property was assessed. This page lists the property and parcel information on which the assessment is based. To view ownership information, click on the link to Show Current Assessor's Record.

Assessment

Year: 2021
Land: \$1,292,800
Improvements [Structures]: \$12,801,000
Total: \$14,093,800

Parcel Information

Property Address: 2330-2360 S 54 ST & 5301 W
 LINCOLN AVE

Parcel Type: Commercial

Neighborhood Group:

Legal Description: MITCHELL MANOR SUBD
 BLKS 2 & 3 & ALL VAC ALLEY
 & STREET ADJ NW 11-6-21

Lot Dimensions: Irregular

Lot Square Footage: 370440.310

Acreage: 8.504

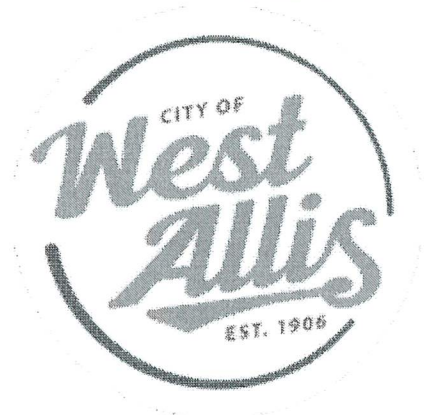
Zoning Class: RC-1: Residence District

Commercial Occupancy Information

Total Occupancy Area:

Error retrieving building occupancy data

Assessor data updated 7/25/2017



Assessor's Office
 City Hall Room 102
 (414) 302-8230
 Fax: (414) 302-8238
 Contact City Assessor

West Allis City Hall
 7525 W. Greenfield Ave
 West Allis, WI 53214
 (414) 302-8200
 8:00 am - 5:00 pm M-F
 Map

STATE OF WISCONSIN**CIRCUIT COURT****MILWAUKEE**

Aria Realty at Mitchell Manor LLC vs. City of West Allis

**Electronic Filing
Notice**Case No. 2021CV004934
Class Code: Money Judgment**FILED**
08-16-2021
John Barrett
Clerk of Circuit Court
2021CV004934
Honorable Kevin E.
Martens-27
Branch 27CITY OF WEST ALLIS
7525 WEST GREENFIELD AVENUE
MILWAUKEE WI 53214

Case number 2021CV004934 was electronically filed with/converted by the Milwaukee County Circuit Court office. The electronic filing system is designed to allow for fast, reliable exchange of documents in court cases.

Parties who register as electronic parties can file, receive and view documents online through the court electronic filing website. A document filed electronically has the same legal effect as a document filed by traditional means. Electronic parties are responsible for serving non-electronic parties by traditional means.

You may also register as an electronic party by following the instructions found at <http://efiling.wicourts.gov/> and may withdraw as an electronic party at any time. There is a \$20.00 fee to register as an electronic party. This fee may be waived if you file a Petition for Waiver of Fees and Costs Affidavit of Indigency (CV-410A) and the court finds you are indigent under §814.29, Wisconsin Statutes.

If you are not represented by an attorney and would like to register an electronic party, you will need to enter the following code on the eFiling website while opting in as an electronic party.

Pro Se opt-in code: 0ae680

Unless you register as an electronic party, you will be served with traditional paper documents by other parties and by the court. You must file and serve traditional paper documents.

Registration is available to attorneys, self-represented individuals, and filing agents who are authorized under Wis. Stat. 799.06(2). A user must register as an individual, not as a law firm, agency, corporation, or other group. Non-attorney individuals representing the interests of a business, such as garnishees, must file by traditional means or through an attorney or filing agent. More information about who may participate in electronic filing is found on the court website.

If you have questions regarding this notice, please contact the Clerk of Circuit Court at 414-278-4120.

Milwaukee County Circuit Court
Date: August 16, 2021