

**SERVICE AND PROCESSING OF CLAIMS**

Plaintiff or Claimant: Case 2019 CU 007517  
Highland Commons US CWA

Date: 10-1-19

- In-person
  - Process Server
  - Claimant
  - Other \_\_\_\_\_

By mail

By email

By fax

Received by: A. Nelt

- Hand deliver to: Ann Marie  or Janel
- Forwarded to Attorney's Office by Ann Marie or Janel
- Response from Attorney's Office
- Common Council Agenda: Yes  No

STATE OF WISCONSIN

CIRCUIT COURT

MILWAUKEE COUNTY

Highland Commons, LLC vs. City of West Allis

**Electronic Filing  
Notice**

Case No. 2019CV007517

Class Code: Money Judgment

FILED

09-27-2019

John Barrett

Clerk of Circuit Court

2019CV007517

Honorable Laura Gramling

Perez-32

Branch 32

CITY OF WEST ALLIS  
7525 W. GREENFIELD AVENUE  
WEST ALLIS WI 53214

RECEIVED

OCT -1 2019

CITY OF WEST ALLIS  
CITY CLERK

Case number 2019CV007517 was electronically filed with/converted by the Milwaukee County Clerk of 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.

If you are not represented by an attorney and would like to register as 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: dd18b4**

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: September 30, 2019

FILED  
09-27-2019  
John Barrett  
Clerk of Circuit Court  
2019CV007517  
Honorable Laura Gramling  
Perez-32  
Branch 32

STATE OF WISCONSIN

CIRCUIT COURT  
CIVIL DIVISION

MILWAUKEE COUNTY

HIGHLAND COMMONS, LLC,  
2 E. Mifflin Street, Suite 801  
Madison, WI 53703,

Plaintiff,

v.

Case No. \_\_\_\_\_  
Money Judgment - 30301

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

Defendant.

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**SUMMONS**

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THE STATE OF WISCONSIN, To each person named above as a 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 Circuit Court, 901 N. 9th Street, Milwaukee, Wisconsin 53233-1458, and to Douglas A. Pessefall, Reinhart Boerner Van Deuren s.c., Plaintiff's attorney, whose address is 1000 N. Water Street, Suite 1700, Milwaukee, Wisconsin 53202. 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.

Dated this 27th day of September, 2019.

Reinhart Boerner Van Deuren s.c.  
1000 North Water Street, Suite 1700  
Milwaukee, WI 53202

Douglas A. Pessefall  
State Bar No. 1034109  
dpessefall@reinhartlaw.com

Mailing Address:  
P.O. Box 2965  
Milwaukee, WI 53201-2965  
Telephone: 414-298-1000  
Facsimile: 414-298-8097

BY Electronically signed by  
Douglas A. Pessefall  
Attorney for Plaintiff  
Highland Commons, LLC

FILED  
09-27-2019  
John Barrett  
Clerk of Circuit Court  
MILWAUKEE COUNTY  
Honorable Laura Gramling  
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Branch 32

STATE OF WISCONSIN

CIRCUIT COURT  
CIVIL DIVISION

MILWAUKEE COUNTY

HIGHLAND COMMONS, LLC,  
2 E. Mifflin Street, Suite 801  
Madison, WI 53703,

Plaintiff,

v.

Case No. \_\_\_\_\_  
Money Judgment - 30301

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

Defendant.

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**COMPLAINT**

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Plaintiff Highland Commons, LLC, by and through its attorney, Douglas A. Pessefall of Reinhart Boerner Van Deuren s.c., and pursuant to Wis. Stat. §§ 70.47(8m), 74.37 and 801.02, states and alleges its Complaint against Defendant City of West Allis as follows:

**INTRODUCTION AND PARTIES**

1. This is an action under Wis. Stat. § 74.37 to recover excessive real estate taxes that have been or may be imposed on Plaintiff Highland Commons, LLC by Defendant City of West Allis for the 2019 tax year, plus statutory interest, with respect to a parcel of real property located in the City of West Allis ("Property").

2. The Property is located at 6700 W. Beloit Road, West Allis, Wisconsin 53219 and is identified on City records as Parcel No. 475-1001-000.

3. The Property consists of a 50-unit rental housing development serving individuals and families whose income is 60% or less of the area median gross income, and is encumbered by Land Use Restriction Agreements ("LURAs").

4. Cardinal Capital Management, Inc. and the Milwaukee Center for Independence ("Center") redeveloped the Property using low-income housing tax credits awarded by the Wisconsin Housing and Economic Development Authority.

5. The redevelopment occurred after citations were issued to the previous owner and/or operator of the Property for numerous health violations and after the Property fell into foreclosure and receivership.

6. The Center's TLS Behavioral Health provides recovery-oriented services and advocacy at the Property for those recovering from mental illness. On-site services wellness recovery groups, recreational activities and life skills practice, such as cooking, computers and art.

7. Plaintiff Highland Commons, LLC ("Highland Commons") is a Wisconsin limited liability company with its principal office located at 2 E. Mifflin Street, Suite 801, Madison, Wisconsin 53703.

8. Highland Commons is the record holder of legal title to the Property, is responsible for the payment of property taxes and the prosecution of property tax disputes involving the Property, and is authorized to bring this claim in its own name.

9. Defendant City of West Allis ("City") is a body corporate and politic, duly organized as a municipal corporation under Wisconsin law, with its principal office located at 7525 W. Greenfield Avenue, West Allis, Wisconsin 53214.

#### **JURISDICTION AND VENUE**

10. The Court has personal jurisdiction over the City pursuant to Wis. Stat. §§ 74.37(3)(d) and/or 801.05(1) or (2).

11. Venue is appropriate in Milwaukee County pursuant to Wis. Stat. §§ 74.37(3)(d) and/or 801.50(2).

### FACTS

12. For purposes of general property taxation, Highland Commons was issued a Notice of Assessment dated June 10, 2019 by the City in connection with the Property ("2019 Assessment Notice"), which was received by Highland Commons on or about July 3, 2019.

13. The 2019 Assessment Notice proposed to assess the Property at \$2,088,900 as of January 1, 2019 ("2019 Assessment"), an increase of more than 160% over the assessment of the Property as of January 1, 2018.

14. In addition, the 2019 Assessment Notice contained instructions for appealing the 2019 Assessment by giving notice of an intent to appeal by contacting the City Clerk at least 48 hours before the Board of Review began on July 11, 2019 ("Notice of Intent") and by filing an Objection to Real Property Assessment form ("Objection") no later than the first two hours of the Board of Review's meeting on July 11, 2019.

15. The 2019 Assessment Notice was accompanied by a letter dated February 26, 2019 from the City Assessor's Office, which stated the Assessor's Office was conducting a revaluation of all commercial properties in the City for assessment purposes and requested the Property's rental income and operating expenses for the past three years ("Information Request").

16. Also included with the 2019 Assessment Notice and Information Request were two envelopes postmarked February 27, 2019 and June 20, 2019, each of which indicated the envelopes were returned to the City by the U.S. Postal Service ("USPS") because the envelopes were "not deliverable as addressed" and the USPS was "unable to forward" as of March 14, 2019

and June 25, 2019, respectively. Copies of the 2019 Assessment Notice, Information Request and the two envelopes are attached hereto as Exhibit A.

17. On July 3, 2019, the same day the 2019 Assessment Notice and Information Request were received by Highland Commons, Highland Commons immediately contacted the Assessor's Office and provided the Property's rental income and operating expenses for the past three years; agreed to provide a current year rent roll; and asked the Assessor review the 2019 Assessment in light of the information provided by Highland Commons.

18. Based on the income and expense information, the fair market value of the Property as of January 1, 2019 was no greater than approximately \$1,370,000 ("2019 Fair Market Value").

19. Accordingly, the 2019 Assessment exceeded the 2019 Fair Market Value by at least \$718,000 ("Excessive Assessment").

20. After receiving the Property's rental income and operating expenses for the past three years on July 3, 2019, the City's Assessor agreed to review the 2019 Assessment, and throughout the next week, Highland Commons engaged in good faith discussions with the Assessor.

21. Those discussions included communications regarding the appropriate capitalization rate to apply to the Property's net operating income for purposes of calculating and reviewing the 2019 Assessment.

22. The capitalization rate applied by the City Assessor to the Property's net operating income was different than the capitalization rate applied by the City Assessor to other similar properties located in the City.



23. City offices were closed for observance of Independence Day on Thursday, July 4, 2019.

24. On Monday, July 8, 2019, Highland Commons provided the City Assessor with a current year rent roll for the Property and copies of the executed and recorded LURAs.

25. To preserve its one-time opportunity to object to the 2019 Assessment and allow the City Assessor additional time to complete his review of the 2019 Assessment, and pursuant to the procedures set forth in Wis. Stat. § 70.47, Highland Commons timely filed with the City a Notice of Intent, an Objection and a request for a hearing before the Board of Review.

26. In response, by letter dated July 17, 2019, the City Clerk purported to deny Highland Commons a hearing before the Board of Review, alleging the Assessor's Office did not receive the Property's rental income and operating expenses for the past three years at least seven days in advance of the Board of Review's initial meeting. A copy of the letter is attached hereto as Exhibit B.

27. By letter dated July 18, 2019, Highland Commons respectfully demanded an opportunity to be heard by the Board of Review ("Hearing Demand") because:

(a) Highland Commons first received the 2019 Assessment Notice and Information Request on July 3, 2019, just eight days before the Board of Review's initial meeting;

(b) Highland Commons provided the City Assessor with the Property's rental income and operating expenses for the past three years on the same day it received the Information Request;

(c) Highland Commons worked in good faith to resolve its concerns with the 2019 Assessment by engaging in discussions with the City Assessor and responding to requests for additional information;

(d) Highland Commons was concerned the City Assessor's revaluation of only commercial properties (and not residential properties) was an improper and arbitrary mode of assessment in violation of the Uniformity Clause of the Wisconsin Constitution; and/or

(e) Highland Commons was informed by the City on July 8, 2019 that it would be notified of the date and time of its Board of Review, in reliance on which Highland Commons did not appear at the initial meeting of the Board of Review, during which the Board of Review presumably heard the unchallenged and ex-parte testimony of the City Assessor.

28. The Hearing Demand also requested the date and time of all remaining meetings of the Board of Review, to which the City never responded. A copy of the Hearing Demand is attached hereto as Exhibit C.

29. By letter dated July 23, 2019, counsel for the City Assessor reiterated the Assessor's opposition to the Highland Commons' request to be heard by the Board of Review. A copy of the letter is attached hereto as Exhibit D.

31. On July 29, 2019, Highland Commons fortuitously learned from another property owner, and not from the City, that the Board of Review would be meeting the next day to reconsider Highland Commons' request for a hearing.

32. On July 30, 2019, Highland Commons attended a meeting of the Board of Review and was permitted to offer testimony in connection with its request for a hearing.

33. Because the Highland Commons was previously denied a hearing before the Board of Review; the Board of Review intended to adjourn; there was no change in the parties'

positions; neither party had an opportunity to prepare its case; and the hearing would have been unnecessary and an inefficient use of resources; Highland Commons submitted to the City a Request for Waiver of Board of Review (BOR) Hearing ("2019 Waiver") pursuant to Wis. Stat. § 70.47(8m), which was granted by the Board of Review on July 30, 2019. A copy of the 2019 Waiver is attached hereto as Exhibit E.

34. By virtue of the 2019 Waiver, the 2019 Assessment was sustained on the merits without a formal hearing.

35. Highland Commons is or will be aggrieved by the levy and collection of a tax based on an excessive assessment.

36. Highland Commons will timely pay the general property tax due in connection with the 2019 Excessive Assessment or an authorized installment of the same.

37. Moreover, the City's assessment of the Property in excess of its fair market value and/or revaluation of only commercial properties, violated the rule of uniform taxation pursuant to Article VIII, Section 1 of the Wisconsin Constitution ("Uniformity Clause").

#### **CLAIM FOR RELIEF**

38. All of the foregoing paragraphs are incorporated as if fully re-alleged.

39. A tax imposed because the assessment of property was excessive is an "excessive assessment" pursuant to Wis. Stat. § 74.37.

40. The 2019 Assessment, as determined by the City, resulted in the non-uniform taxation of real property located within the City in violation of the Uniformity Clause because, without limitation, the City Assessor only revalued some properties located in the City and/or applied different capitalization rates to similar properties for purposes of determining the assessments of those properties.

41. Moreover, Highland Commons received inadequate notice of the initial meeting of the Board of Review within the meaning of Wis. Stat. § 70.365, which requires any notice of changed assessment due to a revaluation to be provided at least 30 days in advance.

42. To the extent Highland Commons receives a tax bill based on the 2019 Assessment, Highland Commons will be a person aggrieved by the levy and collection of a tax imposed because the assessment of the Property was excessive, and, therefore, will be entitled to a refund of the tax pursuant to Wis. Stat. § 74.37(2), together with interest as provided by Wis. Stat. § 74.37(5).

43. Applying the City's 2018 net tax rate of 27.484213 mills to the 2019 Excessive Assessment for illustrative purposes, the amount of this claim is approximately \$19,800, or such greater amount as may be determined by the Court, plus interest.

**WHEREFORE**, Highland Commons respectfully requests that the Court:

- A. Find that the 2019 Assessment exceeded the 2019 Fair Market Value;
- B. Find that the 2019 Assessment was non-uniform with the assessments of property located within the City of West Allis;
- C. Find that the 2019 Assessment Notice was inadequate due to the City's failure to provide Highland Commons with sufficient notice of the date of the initial meeting of the Board of Review;
- D. Find that Highland Commons paid or will pay tax based on the 2019 Assessment;
- E. Find that the tax paid or to be paid on the 2019 Assessment constituted an excessive assessment for which the Highland Commons is entitled to a refund;
- F. Enter a judgment in favor of Highland Commons and against the City in the amount of:

1. Tax paid on the 2019 Excessive Assessment;
2. Interest on the tax paid;
3. Costs and attorney's fees as allowed by law; and
4. Grant such other and further relief as the Court deems just and equitable.

Dated this 27th day of September, 2019.

Reinhart Boerner Van Deuren s.c.  
1000 North Water Street, Suite 1700  
Milwaukee, WI 53202

Douglas A. Pessefall  
State Bar No. 1034109  
dpessefall@reinhartlaw.com

Mailing Address:  
P.O. Box 2965  
Milwaukee, WI 53201-2965  
Telephone: 414-298-1000  
Facsimile: 414-298-8097

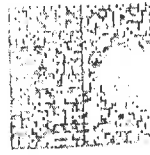
BY Electronically signed by  
Douglas A. Pessefall  
Attorney for Plaintiff  
Highland Commons, LLC

City of West Allis  
7525 W. Greenfield Ave.  
West Allis, WI 53214

FILED  
U.S. DISTRICT COURT - MILWAUKEE  
09-27-2019  
John Barrett  
Clerk of Circuit Court  
2019CV007517  
Honorable Laura Gramling  
Perez-32  
Branch 32

RECEIVED  
JUN 27 2019  
WEST ALLIS  
CITY ASSessor

PRESORTED  
FIRST CLASS



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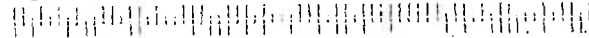
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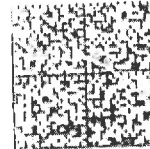
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City of West Allis  
7525 W. Greenfield Ave.  
West Allis, WI 53214

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PRESORTED  
FIRST CLASS

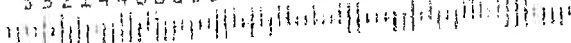


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RETURN TO SENDER  
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BC: 53214468899 \*2686-03678-14-41





City Assessor's Office  
assessor@westalliswi.gov  
414.302.8230

February 26, 2019

Highland Commons LLC  
1126 S 70 St Ste N402  
West Allis, WI 53214

RE: Commercial Properties (Income Producing)  
Property Address: **6700 W Beloit Rd**  
Tax key number: **475-1001-000**

Dear Highland Commons LLC:

For 2019, the Assessor's Office is conducting a revaluation of all commercial properties in the City of West Allis. The revaluation will determine current and equitable market values for assessment purposes for 2019.

Wisconsin law requires that the Assessor consider all valuation methods, including the Income Approach. The Income Approach method estimates a commercial property's market value by analyzing the rental income the property is capable of generating and the expenses the property owner pays to operate the property.

As an owner or manager of income producing property, you are aware of the impact that economic factors have on property values. The Assessor's Office is gathering this data to assist in arriving at fair and equitable values.

Please use the attached form to report this property's rental income and operating expenses for the past three years, 2016, 2017 and 2018. All information provided will be treated in a confidential manner and will not be available for public inspection.

If the enclosed described property is "**owner occupied**" and does not generate rental income, please provide **building operating expense data only**. If additional space is required, or if you wish to submit supplemental information, please attach it to the enclosed form.

Keep in mind that **only** information pertaining to the rental and operation of the building is being requested. **NOT YOUR BUSINESS INCOME OR EXPENSES.**

**Please complete the appropriate parts of the enclosed form by Thursday, March 28, 2018 and return to:**

City Of West Allis  
Assessor's Office  
7525 W. Greenfield Avenue  
West Allis, WI 53214

If you have any questions, please contact the Assessor's Office between 8:00 A.M. and 5:00 P.M. at (414) 302-8230 or email [assessor@westalliswi.gov](mailto:assessor@westalliswi.gov).

Sincerely,

City of West Allis  
Assessor's Office

ASSESSOR'S OFFICE  
 CITY OF WEST ALLIS  
 COMMERCIAL OPERATING STATEMENT FOR 2019

TAX KEY: 475-1001-000  
 PROPERTY ADDRESS: 6700 W Beloit Rd  
 OWNER: Highland Commons LLC

GENERAL PROPERTY INFORMATION	
Total Gross Building Area	Total Retail Area
Net Rentable Area	Total Office Area
Current Vacancy Rate	% Total Warehouse Area

COMMERCIAL RENTAL/LEASE DATA									
Income				Escalation Clause			Rent Per Year		
Rental Sq. Ft. Area	Floor level	Tenant Name	Lease Length	Yes	Type	No	2016	2017	2018

APARTMENT/HOTEL/MOTEL DATA (✓ Appropriate Feature/Included in Rent)												
<input type="checkbox"/> Range	<input type="checkbox"/> Dishwasher	<input type="checkbox"/> Water	<input type="checkbox"/> Carpet	<input type="checkbox"/> Sewer	<input type="checkbox"/> Fireplace	<input type="checkbox"/> Refrigerator	<input type="checkbox"/> Disposal	<input type="checkbox"/> Electric	<input type="checkbox"/> Drapes	<input type="checkbox"/> Gas	<input type="checkbox"/> Washer/Dryer	<input type="checkbox"/> Heat
One Bedroom		Two Bedroom		Three Bedroom		_____ Bedroom						
# Units	Rent	# Units	Rent	# Units	Rent	# Units	Rent					
Parking	#	Covered Units at \$		#	Uncovered Units at \$							

	2016	2017	2018
(A) Potential Gross Income (total annual income from all spaces)	\$	\$	\$
(B) Other Income (i.e. parking, laundry or common area maintenance)	\$	\$	\$
(C) Collection Loss Rate (unpaid or late rental payments) (____)%	-\$	-\$	-\$
(D) Vacancy Rate (number of months vacant each year) (____)%	-\$	-\$	-\$
(E) Effective Gross Income = (A+B) - (C+D)	\$	\$	\$

ENTER EXPENSE INFORMATION ON REVERSE SIDE



Parcel Number: 475-1001-000

Please list expenses paid by the property owner only.

BUILDING OPERATING EXPENSES	2016	2017	2018
Management (3 <sup>rd</sup> -party management services or paid staff)	\$	\$	\$
Reserves for Replacement (\$ planned for replacement of roof, HVAC, etc.)	\$	\$	\$
Utilities (gas, electric, water and sewer paid by building owner)	\$	\$	\$
Administrative Expenses (office rental, leasing, legal, accounting, etc.)	\$	\$	\$
Maintenance & Repairs	\$	\$	\$
Payroll (Maintenance Employee)	\$	\$	\$
Insurance (fire and liability)	\$	\$	\$
Miscellaneous (snow removal, lawn mowing, etc.)	\$	\$	\$
Trash Removal	\$	\$	\$
Security Patrol	\$	\$	\$
Ground Lease	\$	\$	\$
	\$	\$	\$
	\$	\$	\$
Total Expenses (minus)	\$	\$	\$
Net Income Before Taxes & Recapture	\$	\$	\$
Current Real Estate Taxes	\$	\$	\$

Market Data	Purchased Land Only For \$_____ in 20____	Purchased Land & Buildings For \$_____ in 20____	Land Size
	Please indicate the amount, if any, of the purchase price paid for considerations other than real estate. Items _____ Amount \$		

Remodeling Data

Have you remodeled or made capital improvements in the last 5 years? \_\_\_\_\_. If yes, briefly describe and provide costs below.

New Construction Cost

If within last two years. \$

Signature, Owner, Mgl. or Agent.

Date

Telephone



City Assessor's Office

assessor@westalliswi.gov

414.302.8232

June 10, 2019

**NOTICE OF ASSESSMENT**  
**(this is not a tax bill)**Highland Commons LLC  
1126 S 70 St Ste N402  
West Allis, WI 53214Tax key number: **475-1001-000**  
Property Address: **6700 W Beloit Rd**

Dear West Allis Property Owner:

This letter is to explain the assessment process and serve as the 2019 property assessment notice. The assessment represents the assessable value of the property rather than its full market value.

In accordance with Section 70.365 of the Wisconsin Statutes, you are hereby notified of the assessment for the current year 2019 on the property described.

➤ 2018 Assessment	\$1,250,000
➤ 2019 Assessment	\$2,088,900

**Reasons for Assessment Change:** Revaluation

**To Appeal Your Assessment**

First, discuss with your local assessor – minor errors and misunderstandings can often be corrected with the assessor instead of making a formal appeal. Should you have any questions regarding this change in assessed value, please call the Assessor's Office at **414-302-8232** prior to **Tuesday, June 25, 2019**.

To file a formal appeal – give notice of your intent to appeal by contacting the City Clerk at least 48 hours before the Board of Review begins. Complete and file your Objection to Real Property Assessment form with the Clerk no later than the first two hours of the Board of Review's meeting. Make sure you file a completed form or the Board of Review may not review your appeal. You can contact the City Clerk at 414-302-8220 or [sbraatz@westalliswi.gov](mailto:sbraatz@westalliswi.gov)

The Board of Review will meet at City Hall in the Common Council Chambers on **Thursday, July 11, 2019 at 10:00 A.M.**

The Board of Review operates similarly to a court of law. Its function is not one of valuation, but of determining the validity of the facts presented before it. You or your representative may provide testimony to the Board in objection to your assessment. You must be able to prove that your assessment is inequitable, or is too high compared to the general level of assessment in West Allis.



# Mailing Address Change Request

For more information visit the City's Website: [www.westalliswi.gov](http://www.westalliswi.gov)

**PLEASE PLACE A CHECKMARK ON ALL AREAS THAT SHOULD BE CHANGED.**

<b>Water Utility</b>	<b>WATER BILLS:</b> <input type="checkbox"/> Printed <input type="checkbox"/> E-mailed <input type="checkbox"/> Both <small>Only the name(s) on the water bill account can access information regarding the account without a signed release form on file. For a Release Form, contact the Water Dept at (414) 302-8245.</small>
<b>Fire Inspections</b>	<input type="checkbox"/> <b>COMMERCIAL, APARTMENTS/3+MULTI-FAMILY, CONDOS, &amp; EXEMPT PROPERTIES</b>
<b>Assessor</b>	<input type="checkbox"/> <b>TAX BILLS</b> <input type="checkbox"/> <b>ALL CITY CORRESPONDENCE</b>
<b>Property Owner Registration</b>	<input type="checkbox"/> <b>ALL COMMERCIAL, RENTALS (RESIDENTIAL) PROPERTIES</b> <small>If <u>not registered</u>, contact Building Inspections at (414) 302-8400.</small>

## ACCOUNT INFORMATION

Water Acct #	Property Address(es)	Tax Key Number(s)

## NEW MAILING ADDRESS

<b>NAME(S):</b>	
<b>STREET ADDRESS:</b>	
<b>CITY, STATE, ZIP:</b>	
<b>EMAIL:</b>	

## REQUESTOR INFORMATION

<input type="checkbox"/> Owner <input type="checkbox"/> Property Mgt Co <input type="checkbox"/> Power of Attorney			
<b>PRINT NAME:</b>		<b>PHONE #:</b>	
<b>PLEASE SIGN HERE:</b>		<b>DATE:</b>	
<b>MAIL TO:</b>	City of West Allis Assessor's Office 7525 W Greenfield Ave West Allis, WI 53214	<b>EMAIL:</b> <a href="mailto:addresschange@westalliswi.gov">addresschange@westalliswi.gov</a> <b>FAX:</b> 414.302.8238	

**WARNING:** Change will **NOT** be processed without Signature and Phone Number.  
Also, if Property Mgt Co or Power of Attorney, you must provide documentation.



CITY OF WEST ALLIS  
clerk@westalliswi.gov  
414.302.8220

July 17, 2019

Highland Commons, LLC  
2 E. Mifflin Street, Suite 801  
Madison, WI 53703

**RE: City of West Allis Board of Review Hearing on Objection on 2019 Property Assessment**

Dear Highland Commons, LLC:

The City of West Allis Board of Review (BOR) convened on July 11, 2019 and considered whether it can hear your Objection to Real Property Assessment for property located at 6700 W. Beloit Rd. The BOR determined that, pursuant to Wis. Stat. Sec. 70.47(7)(af), you may not appear before the BOR, testify to the BOR by telephone or object to the valuation. As a result, a hearing will not be scheduled before the BOR for your objection.

Wis. Stat. Sec. 70.47(7)(af) provides: "No person may appear before the board of review, testify to the board by telephone or object to a valuation; if that valuation was made by the assessor or the objector using the income method; unless no later than 7 days before the first meeting of the board of review the person supplies to the assessor all of the information about income and expenses, as specified in the manual under s. 73.03 (2a), that the assessor requests. The municipality or county shall provide by ordinance for the confidentiality of information about income and expenses that is provided to the assessor under this paragraph and shall provide exceptions for persons using the information in the discharge of duties imposed by law or of the duties of their office or by order of a court. The information that is provided under this paragraph is not subject to the right of inspection and copying under s. 19.35 (1) unless a court determines before the first meeting of the board of review that the information is inaccurate.

If you have any further questions, feel free to contact me at (414) 302-8201.

Sincerely,

Steven A. Braatz, Jr.  
City Clerk

CC: Douglas A. Pessefall





Reinhart Boerner Van Deuren s.c.  
P.O. Box 2965  
Milwaukee, WI 53201-2965

1000 North Water Street  
Suite 1700  
Milwaukee, WI 53202

Telephone: 414-298-1000  
Facsimile: 414-298-8097  
reinhartlaw.com

July 18, 2019

Douglas A. Pessefall  
Direct Dial: 414-298-8311  
dpessefall@reinhartlaw.com

SENT BY E-MAIL

Steven A. Braatz, Jr., MMC/WCPC  
City Clerk  
City of West Allis  
7525 W. Greenfield Avenue  
West Allis, WI 53214

Dear Mr. Braatz:

Re: Highland Commons, LLC  
6700 W. Beloit Road  
Parcel No. 475-1001-000

The purpose of this letter is to acknowledge receipt of your July 17, 2019 letter that purports to deny Highland Commons, LLC its right to a hearing before the Board of Review in connection with the above-referenced property. For the reasons more fully set forth herein, we respectfully demand Highland Commons be afforded an opportunity to be heard by the Board of Review.

First, Highland Commons did not receive a request for information about income and expenses until it received the notice of assessment. In fact, we have copies of mail containing the notice of assessment and request for income and expense information, which was directed to Highland Commons at an incorrect address, and which was returned to and dated as received by the City of West Allis on or about June 27, 2019. To contend that a request for income and expense information dated February 26, 2019, mailed with a notice of assessment dated June 10, 2019, and not received by the taxpayer until on or about July 3, 2019 somehow starts the clock running is a bit disingenuous.

Second, Highland Commons, through its authorized agent, provided the assessor with three years of actual income and expense information on July 3, 2019, which was seven days before the first meeting of the Board of Review. Copies of a rent roll and land use restriction agreement also were provided to the Assessor.

Third, Highland Commons worked in good faith to resolve its concerns about the 2019 assessment, made some progress with the City Assessor and hoped to continue those discussions after the initial meeting of the Board of Review. We welcome continued discussions.

Milwaukee  
Rockford, IL • M



Chicago, IL  
• Phoenix, AZ

Steven A. Braatz, Jr., MMC/WCPC

July 18, 2019

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Fourth, we believe the City's practice of singling out commercial properties for a revaluation in 2019 (and not revaluing residential properties) reflects an improper and arbitrary mode of assessment in violation of the Uniformity Clause of the Wisconsin Constitution.

Finally, per an email from your office dated July 8, 2019, Highland Commons was informed that it would be notified of the date and time of its Board of Review hearing. In reliance on that email, Highland Commons did not appear at the initial meeting of the Board of Review on July 10. The fact that the City has denied Highland Commons a Board of Review hearing, after assuring the taxpayer it a hearing would be scheduled, and presumably on the basis of unchallenged and ex-parte testimony of the City Assessor (e.g., relating to the income and expense information), is improper, capricious, arbitrary and inequitable. These are precisely the types of actions that lead to a lack of public confidence in the assessment process generally.

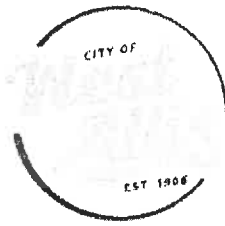
Let me know the date and time of all of the remaining Board of Review hearings, and the date and time at which Highland Commons may present its case. If Highland Commons is denied its right to appear before the Board of Review before it adjourns for the year, then Highland Commons reserves its right to pursue a claim and action for excessive assessment, and any and all other legal and equitable remedies.

Yours very truly,



Douglas A. Pessefall

cc Nicklaus J. Jung, Esq.  
Mr. Chris Geiger



City Attorney's Office  
attorney@westalliswi.gov  
Office: 414.302.8450  
Fax: 414.302.8444

City Attorney

Deputy City Attorney

Principal Assistant City Attorneys

July 23, 2019

SENT VIA EMAIL

Douglas A. Pessefall  
Reinhart Boerner Van Deuren s.c.  
1000 North Water Street, Ste. 1700  
Milwaukee, WI 53202

RE: Highland Commons, LLC  
6700 W. Beloit Road  
Parcel No. 475-1001-000

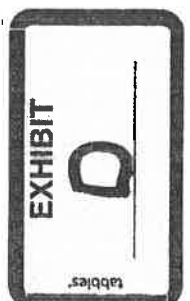
Dear Atty. Pessefall:

I received a copy of your letter dated July 18 in which you raise several issues regarding the assessment of 6700 W. Beloit Road and demand a hearing before the West Allis Board of Review ("Board"). I represent the assessor in this matter, and Attorney Jason Gehring represents the Board's interests. The City hired outside counsel to avoid any conflict of interest between the assessor and the Board. Your letter demands action from the Board, so I believe Atty. Gehring will have to advise the Board on how to proceed in response to your letter. Nonetheless, this is an opportunity to state the assessor's position on the issues raised.

A person may not appear before the Board, testify to the Board, or object to valuation made via the income method if the person failed to supply the assessor with actual income and expense information by July 3 at 5:00 p.m. pursuant to Wis. Stat. § 70.47(7)(af). The subject property was one of the parcels which the assessor presented to the Board as failing to satisfy Wis. Stat. § 70.47(7)(af). Your argument appears to have the following points as they relate to the assessor's argument: 1) the method by which the assessor requested income and expense information was insufficient, and 2) the income and expense information that was provided on July 3 was sufficient. You also raised other collateral issues that are outside the scope of this discussion.

First, the assessor mailed a request for income and expense information on February 26, 2019 to the owner's last-known address. In fact, after the assessor's office performed independent research to try to locate a contact person, the individual who was located, Mark Klann, confirmed that address was accurate. I am not aware of any standard in law that mandates a certain method of requesting such information, but certainly a letter to the property owner's address should have been acceptable. If permanent civil judgments can be awarded based on notices mailed to last-known addresses, certainly the assessor's choice to use the same method in this context is sufficient. Additionally, the assessor's office personally notified Mr. Klann on July 1 of the mail issue. The two days of notice is clearly not ideal because the assessor sought to make such requests in February, but the assessor took reasonable action to request income and expense information and even performed extraordinary work during a very busy time of the year to reach a representative of the owner prior to the July 3 deadline.

Second, the information received by the assessor did not contain all the information about income and expenses requested by the assessor. The summary that was provided did not include actual





July 23, 2019  
Page 2

rent rolls and did not contain a signed list of expenses similar to what is found on DOR Form PA-323. State law requires that "all of the information about income and expenses, as specified in the manual under s. 73.03 (2a), that the assessor requests" must be provided 7 days prior to the first Board's first meeting, which was July 3. That did not occur, so Wis. Stat. § 70.47(7)(af) precludes the property owner from objecting to the valuation of the subject property for the 2019 valuation.

To ensure that those taxpayers who did not comply by timely submitting actual income and expense information are treated equally, the assessor opposes scheduling a hearing on this matter. If you wish to discuss this further, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "KAIL DECKER".

KAIL DECKER  
City Attorney

cc: Atty. Jason Gehring  
Steven Braatz, Jr.  
Nick Jung  
Chris Geiger  
Jason Williams



### Request for Waiver of Board of Review (BOR) Hearing

Section 70.47 (8m), Wis. Stats., states, "The board may, at the request of the taxpayer or assessor, or at its own discretion, waive the hearing of an objection under sub. (8) or, in a 1<sup>st</sup> class city, under sub. (16) and allow the taxpayer to have the taxpayer's assessment reviewed under sub. (13). For purposes of this subsection, the board shall submit the notice of decision under sub. (12) using the amount of the taxpayer's assessment as the finalized amount. For purposes of this subsection, if the board waives the hearing, the waiver disallows the taxpayer's claim on excessive assessment under sec. 74.37(3) and notwithstanding the time period under sec. 74.37(3)(d), the taxpayer has 60 days from the notice of hearing waiver in which to commence an action under sec. 74.37(3)(d)."

**NOTE: The legal requirements of the Notice of Intent to Appear must be satisfied and the Objection Form must be completed and submitted as required by law prior to the Request for Waiver of Board of Review Hearing being submitted.**

**NOTE: Request for Waiver must be presented prior to the commencement of the hearing.**

Municipality City of West Allis	County Milwaukee
Requestor's name Highland Commons, LLC	Agent name (if applicable) * Douglas A. Pessefall, Reinhart Boerner Van Deuren s.c.
Requestor's mailing address 2 E. Mifflin Street, Suite 801 Madison, WI 53703	Agent's mailing address 1000 N. Water Street, Suite 1700 Milwaukee, WI 53202
Requestor's telephone number ( 414 ) 395 - 4455 <input checked="" type="checkbox"/> Land Line <input type="checkbox"/> Cell Phone	Agent's telephone number ( 414 ) 298 - 8311 <input checked="" type="checkbox"/> Land Line <input type="checkbox"/> Cell Phone
Requestor's email address cqeiger@astarus.com	Agent's email address dpessefall@reinhartlaw.com

Property address 6700 W. Beloit Road	
Legal description or parcel number 475-1001-000	
Taxpayer's assessment as established by assessor - Value as determined due to waiving of BOR hearing \$ 2,088,900	
Property owner's opinion of value \$ 1,370,681	
Basis for request Partial revaluation of City property creates Uniformity Clause legal issue best reviewed by the courts	
Date Notice of Intent to Appear at BOR was given 07 - 08 - 2019	Date Objection Form was completed and submitted 07 - 10 - 2019

All parties to the hearing understand that in granting of this waiver there can be no appeal to the Department of Revenue under sec. 70.85, Wis. Stats. An action under sec. 70.47(13), Wis. Stats., must be commenced within 90 days of the receipt of the notice of the waiving of the hearing. An action under sec. 74.37(3)(d), Wis. Stats., must be commenced within 60 days of the receipt of the notice of the waiving of the hearing.

*[Signature]* 7/10/2019  
Requestor's / Agent's Signature

\*If agent, attach signed Agent Authorization Form, PA-105

**Decision**

Approved       Denied

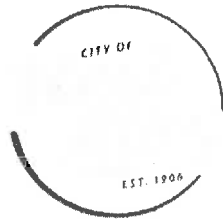
Reason See attached

*[Signature]*  
Board of Review Chairperson's Signature

7/30/19  
Date

Taxpayer advised





clerk@westalliswi.gov  
414.302.8220

Attachment to Request for Waiver of Board of Review Hearing Form PA-813:

Reason for Decision:

The assessor requested a hearing waiver under Wis. Stat. § 70.47(8m) because the property is unique and is likely to involve a very complex valuation process more well-suited for circuit court. The assessor argued that a board hearing would take up a great deal of time and it may involve technical legal arguments that can be more easily handled by a judge. The assessor stated that a court action would provide an opportunity for full discovery and civil procedure that will yield the best possible evidence of valuation.