

STATE OF WISCONSIN

CIRCUIT COURT

MILWAUKEE

Association of Equipment Manufacturers vs. City of West Allis

Electronic Filing Notice

Case No. 2022CV002644
Class Code: Money Judgment

FILED
04-25-2022
George L. Christenson
Clerk of Circuit Court
2022CV002644
Honorable Carl Ashley-33
Branch 33

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

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

Milwaukee County Circuit Court
Date: April 25, 2022

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28 APR 22 AM 11:54
CITY OF WEST ALLIS

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STATE OF WISCONSIN  
MILWAUKEE COUNTY

CIRCUIT COURT

**ASSOCIATION OF EQUIPMENT  
MANUFACTURERS,**  
a Wisconsin trade association,  
6737 W. Washington Street, Suite 2400  
West Allis, WI 53214,

Plaintiff,

vs.

**CITY OF WEST ALLIS,**  
a Wisconsin municipal corporation,  
7525 W. Greenfield Avenue  
West Allis, WI 53214,

Defendant.

Case No.

Classification: 30301 –  
Money Judgment

*For Official Use:*

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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 Courthouse, 901 N. 9th Street, Milwaukee, Wisconsin 53233, and to Joseph A. Pickart of Husch Blackwell LLP, Plaintiff's attorney, whose address is 511 North Broadway Street, Suite 1100, 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 25<sup>th</sup> day of April, 2022.

HUSCH BLACKWELL LLP  
Attorneys for Plaintiff  
Association of Equipment Manufacturers

*Electronically signed*

By: s/ Joseph A. Pickart

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CIRCUIT COURT

**ASSOCIATION OF EQUIPMENT  
MANUFACTURERS,**  
a Wisconsin trade association,  
6737 W. Washington Street, Suite 2400  
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*For Official Use:*

Plaintiff,

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Case No.

**CITY OF WEST ALLIS,**  
a Wisconsin municipal corporation,  
7525 W. Greenfield Avenue  
West Allis, WI 53214,

Classification: 30301 –  
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Defendant.

**COMPLAINT**

Plaintiff, Association of Equipment Manufacturers (“AEM”), by and through its attorneys, Husch Blackwell LLP, states and alleges its Complaint against Defendant, City of West Allis (the “City”) as follows:

**INTRODUCTION**

1. This is an action filed pursuant to Wis. Stat. § 74.35 to recover that amount of the personal property tax imposed upon and paid by AEM for the 2021 tax year because the City’s January 1, 2021 assessment was unlawful.

**PARTIES**

2. Plaintiff is a Wisconsin trade association, with its principal place of business located at 6737 West Washington Street, Suite 2400, West Allis, Wisconsin 53214.



3. Defendant is a Wisconsin municipal corporation with its principal place of business located at 7525 West Greenfield Avenue, West Allis, Wisconsin 53214.

### **VENUE AND JURISDICTION**

4. This Court has jurisdiction over the subject matter of this dispute pursuant to Article VII, Section 8 of the Wisconsin Constitution, which provides for subject matter jurisdiction over all civil matters within this state.

5. The City is subject to this Court's jurisdiction pursuant to Wis. Stat. § 801.05, including – *inter alia* – subparts (1) and (5).

6. Venue is proper in Milwaukee County pursuant to Wis. Stat. § 801.50(2)(a) and (b) because it is the county where the claim arose and where the subject property is situated.

### **FACTS**

7. At all relevant times, AEM leased the property located in the City of West Allis at 6737 West Washington Street, Suite 2400 identified by the City as Parcel No. 26053 (the "Property").

8. At all relevant times, the Property contained exempt personal property, including machinery, tools, patterns, mainframe computers, minicomputers, personal computers, networked personal computers, servers, terminals, monitors, disk drives, electronic peripheral equipment, tape drivers, printers, basic operational programs, systems software, and prewritten software (the "Personal Property").

9. For the tax year 2021, the City assessed the Personal Property at \$4,923,742.00 (the "2021 Assessment"), on the basis that the Personal Property was not exempt under Wis. Stat. § 70.11 or § 70.111.

10. The 2021 Assessment included general contractor costs which relate to real property improvement for costs associated with demolition, electrical, HVAC, data, and flooring

improvements, as well as architectural design costs and branding fees (“the leasehold improvements.”). The leasehold improvements are either permanent improvements to the Property that will benefit any future tenant or costs that have no tangible value to the Property.

11. The Personal Property was exempt from property taxes under Wis. Stat. § 70.11(39) and/or Wis. Stat. § 70.111(27).

12. The leasehold improvements are not taxable to AEM because they were also taxed as Real Property to the landlord of the Property. They were therefore unlawfully taxed twice by the City, once as Real Property and once as Personal Property.

13. Thus, the 2021 Assessment unlawfully included \$4,140,897.00 of Property which qualified for exemption pursuant to Wis. Stat. § 70.11 and/or Wis. Stat. § 70.111 and/or which had already been taxed as Real Property to the landlord (“Unlawful Assessment”).

14. In December 2021, the City issued a Personal Estate Property Tax Bill (“Tax Bill”) based on the 2021 Assessment, which alleged a total net property tax due of \$136,493.34.

15. AEM has timely paid the tax alleged to be due for the 2021 tax year.

16. AEM has fully complied with all statutory requirements under its control for procedurally objecting to the 2021 Assessment under Wis. Stat. § 74.35.

17. By letter filed January 31, 2022, AEM timely filed a refund claim to recover unlawful taxes paid as a result of the Unlawful Assessment (“Refund Claim”), in an amount of no less than \$117,356.20, plus interest as provided by law.

18. The City notified AEM that its Refund Claim was disallowed, pursuant to Wis. Stat. § 74.35(3)(b), by letter dated March 7, 2022.

19. Pursuant to Wis. Stat. § 74.35(3)(d), AEM timely commenced the action relating to the 2021 tax year within 90 days after its Refund Claim had been disallowed.

20. AEM has not contested the 2021 Assessment of the Personal Property under Wis. Stats. §§ 74.33 or 806.04.

### **CLAIM FOR RELIEF**

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

22. The 2021 Assessment is an Unlawful Assessment of the Personal Property, as defined in Wis. Stat. § 74.35, because the City's 2021 Assessment included exempt personal property and of property that was already subject to taxation as real property.

23. AEM is aggrieved by the imposition of personal property tax based on the Unlawful Assessment by the City and is, therefore, entitled to a refund under Wis. Stat. § 74.35 of not less than \$136,493.34, the unlawful taxes it paid to the City for the 2021 tax year, together with interest as provided by Wis. Stat. § 74.35(4).

**WHEREFORE**, AEM respectfully requests that this Court:

- A. Declare, Find and/or Order the 2021 Assessment to be unlawful;
- B. Declare, Find and/or Order that AEM paid more than its fair share of taxes due to the assessment of exempt property in 2021;
- C. Declare, Find and/or Order that AEM is entitled to a refund of not less than \$136,493.34, the unlawful taxes assessed by the City pursuant to Wis. Stat. § 74.35, together with interest pursuant to Wis. Stat. § 74.35(4);
- D. Award AEM actual and reasonable attorneys' fees and costs associated with the prosecution of this dispute; and
- E. Grant any and all other relief that the Court deems just and equitable under the circumstances.

Dated this 25<sup>th</sup> day of April, 2022.

HUSCH BLACKWELL LLP  
Attorneys for Plaintiff  
Association of Equipment Manufacturers

*Electronically signed*

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