

#36



City of West Allis Matter Summary

7525 W. Greenfield Ave.
West Allis, WI 53214

File Number	Title	Status
2008-0060	Claim	Claim Report
Juro J. Gajdosik communication regarding the special assessment for the property at 5833 W. Beloit Rd.		
Introduced: 2/5/2008		Controlling Body: Administration & Finance Committee

COMMITTEE RECOMMENDATION

Deny

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<u>MAR 31 2008</u>			Barczak	✓			
			Czaplewski	✓			
			Dobrowski				
			Kopplin				
			Lajsic	✓			
			Narlock				
			Reinke	✓			
			Sengstock				
			Vitale				
		✓		Weigel	✓		
			TOTAL	5	-		

SIGNATURE OF COMMITTEE MEMBER

[Signature]
Chair

Vice-Chair

Member

COMMON COUNCIL ACTION

Deny

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<u>MAR 31 2008</u>	✓		Barczak	✓			
			Czaplewski	✓			
			Dobrowski	✓			
			Kopplin	✓			
			Lajsic	✓			
			Narlock	✓			
			Reinke	✓			
			Sengstock	✓			
			Vitale	✓			
			Weigel	✓			
			TOTAL	10	-		



OFFICE OF THE CITY ATTORNEY

March 17, 2008

Common Council
City of West Allis

Scott E. Post
City Attorney
Sheryl L. Kuhary
Jeffrey J. Warchol
Jenna R. Merten
Assistant City Attorneys

RE: City Attorney's Report of Claim

Dear Council Members:

The enclosed claim has been referred to this office in accordance with Section 3.05 (6)(a) of the Revised Municipal Code. This office has examined the facts of the claim and the applicable law. Our Opinion regarding liability is as follows:

It is the recommendation of this office that the following claim be denied:

Juro J. Gajdosik - Removal of Assessment from Property Tax Bill

This is an unusual claim requesting that the City remove a Special Assessment against the claimant's real property located at 5833 West Beloit Road, West Allis, WI. The assessment dates back to reconstruction of the alley behind the claimant's property, which was completed in 2005 and billed out in January of 2006. At the time of the completion of the project and the billing, the property was not owned by the claimant but by Bradley and Anna Amsden. The Amsdens failed to pay the assessment prior to November 1st, 2006, so it was added, pursuant to law, as a lien to their 2006 property tax bill under the ten (10) year installment plan.

The claimants subsequently purchased the home in May of 2007. Prior to closing, the title company handling the transaction requested "special letters", a common practice, from the City regarding outstanding charges against the property. The City clerk handling said request made a mistake in failing to report the outstanding assessment dating back to 2006; thus the property closed with the outstanding assessment still levied against the property. As a result of the above, the claimant in his claim alleges that he is not responsible for the assessment due to the fact that he relied on erroneous information provided by the City and therefore is requesting that said assessment be removed from his property tax bill.

Our investigation into this claim indicates that the clerk processing the title company's request did err upon examining the records and failing to report the assessment. It is important to note that the assessment was properly documented; it's just that the clerk misread the records. However, the fact that the City made this mistake and provided incorrect information to the title company does not relieve the claimant of responsibility for the assessment nor does it make the City liable and substantiate a removal of the assessment from the property tax bill. The law of equity clearly recognizes that mistakes are made and looks beyond the letter of the law to determine what would be just and fair given the particular situation. Here, the City's form for processing "special letters" also

recognizes mistakes by clearly stating on its face the following:

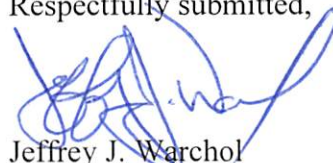
NOTE: It is hereby expressly understood that this memorandum statement is issued subject to errors and omissions and shall not be binding upon the City of West Allis. In accordance with Sec. 19.35 Wisconsin Statutes, you are entitled to examine the public records of this office and verify the information obtained therefrom to your own satisfaction.

Again, the assessment was properly recorded. Nothing prevented the title company from examining the records on its own, just as the City's document states, to double check the City's information or to find possible outstanding assessments against the property on its own. Furthermore, the claimant is receiving a benefit on a daily basis in his access and use of a restructured paved alley behind his home. At this point, given what has occurred in this case, it would simply be unjust to allow the claimant the benefit of said reconstruction on his property and force the City and not a property owner to have to pay for it. Finally, I simply do not believe that the claimant has been harmed in any way in this matter. Given that the amount of the Special Assessment was approximately \$1,000.00 and is insignificant when compared to the overall purchase price of the home, I cannot imagine that had the claimant known about the assessment, he would have not gone through with the purchase of the property. What would have happened, however, is that the assessment would have been paid by the previous owner, who clearly knew about the situation but failed to disclose it, prior to or at closing.

The assessment runs with the property not the person. This matter should be handled by the title company for the claimant whose job it was to provide clear title to the property or between the title company and the previous owner, but not the City of West Allis. I am sure this is not the first time that a title company had to deal with a mistake on the "special letters" form processed by a municipality. If the title company chooses not to verify records on its own, it takes the risk that title will be clear; if not, the title insurance policy should provide for payment of the same to clear title.

Based upon the reasons set forth above, it is the recommendation of the City Attorney's Office to deny this claim pursuant to the provisions of Wisconsin Municipal Claim Statute 893.80.

Respectfully submitted,



Jeffrey J. Warchol
Assistant City Attorney

RECEIVED

JAN 22 2008

CITY OF WEST ALLIS
CLERK/TREASURER

Juro J. Gajdosik
5833 W. Beloit Road
West Allis, WI 53219
414 213-8115 cellular

January 22, 2008

Common Council of the
City of West Allis
7525 W. Greenfield Avenue
West Allis, WI 53214

RE: Tax key no. 455-0101-000-8
5833 West Beloit Road

Dear Sirs:

I am the owner of the above property. I am in receipt of a special tax assessment dated January 28, 2006. I purchased the property in 2007, 17 months after the special tax had been assessed against the property. Before purchasing the property, we asked whether there were any special assessments on the property. You did not disclose this assessment. I purchased the property based on your office's representation that no such lien existed.

Because it was my understanding that there were no property liens or assessments pending, based on your representations, your proper recourse might lie with the property's former owner, but it is not with me. I have attached a copy of your Statement of Real Estate Property Taxes which states that there are no liens or assessments, and a copy of your 2006 special assessment.

Please, contact me with any questions or comments you may have. Thank you in advance for your consideration.

Very truly yours,



Juro J. Gajdosik

Enclosures: Statement of Real Estate Property Taxes
Special Assessment Billing dated 2006

**CITY OF WEST ALLIS
7525 West Greenfield Avenue
West Allis, Wisconsin 53214
STATEMENT OF REAL ESTATE PROPERTY TAXES**

RE: 0701A0410 Jennifer

TAX Key No. 455-0101-000-8 Address 5833 West Beloit Road

- ASSESSMENT AND TAXES – INCLUDED WITH ATTACHED TAX BILL COPY**
(Please check with Milwaukee County Treasurer for status of prior years taxes)
- OUTSTANDING SPECIAL ASSESSMENTS**

Improvement	Years	Principal	Interest*	Total
<i>None out of 11-07 ap 59-07</i>				

* Interest at _____ % figured to _____

PENDING SPECIAL ASSESSMENTS AND MISC CHARGES

no miscellaneous charges K Engel 5/9/07

No housing + Econ. Development Loans 5-9-07 ap

No proposed or pending special assessments as of 5/9/07 me.

WATER BILLING

Account Number 17851-17476 Balance 0 Date Due _____

Amount of Last Bill 83.94 Last Month Read 2-16-07

Next Quarterly Reading May (all amounts include water and sewer)

FINAL READING MUST BE OBTAINED FROM UTILITY 302-8830 8245 K Engel 5-9-07

DEFERRED SEWER AND WATER CHARGES

N/A

FLOOD PLAIN
Property located in a flood plain? no MCL/me 5/9/07

OTHER INFORMATION REQUESTED (Specify)

NOTE: It is hereby expressly understood that this memorandum statement is issued subject to errors and omissions and shall not be binding upon the City of West Allis. In accordance with Sec 19.35 Wisconsin Statutes, you are entitled to examine the public records of this office and verify the information obtained therefrom to your own satisfaction

Requested by:

Wisconsin Title Service, Inc Attn Order Entry Signature _____
1716 Paramount Drive
Waukesha WI 53186

Make check for \$25.00 payable to: CITY OF WEST ALLIS – Mail to CITY CLERK 7525 W Greenfield Ave West Allis WI 53214 with a self-addressed, stamped envelope
T2/TPS15WI REV 12/05

CITY OF WEST ALLIS ENGINEERING DEPARTMENT
 7525 W GREENFIELD AVE WEST ALLIS, WIS 53214
 PHONE: 414-302-8358

SPECIAL ASSESSMENT BILLING

ASMT. NO. 06-0014
 KEY NO. 455-0101-000

AMSOEN BRADLEY T C ANNA
 5833 W BELDIT RD
 WEST ALLIS 53219

BILLING DATE: JAN 26, 2006
 DUE DATE: FEB 26, 2006

THIS SPECIAL ASSESSMENT BILLING REPRESENTS PAYMENT DUE FOR THE INSTALLATION OF IMPROVEMENTS AS LISTED ADJUTTING THE FOLLOWING DESCRIBED PROPERTY:
 GEOCH FARM SUBD NO 1 LOT 4 BLK 9

SAID ASSESSMENT WAS COMPUTED IN THE FOLLOWING MANNER:

IMPROVEMENT	CONSTRUCTION QUANTITY	ASSESSMENT RATE	GROSS ASSESSMENT	PERCENT ASSESSED	NET ASSESSMENT
1/2" WIDE ALLEY	60.00 LN FT	17.70	1,062.00	100.00%	1,062.00
				TOTAL AMOUNT DUE	1,062.00

THIS BILLING IS PAYABLE BY ONE OF THE METHODS LISTED BELOW. IF YOU SELECT PAYMENT METHOD #2 OR #3, CHECK THE APPROPRIATE BOX, SIGN THE BILLING, AND RETURN THE WHITE COPY TO THE CLERK/TREASURER'S OFFICE.

- 1. PAYMENT OF ENTIRE ASSESSMENT WITHOUT INTEREST ON OR BEFORE DUE DATE AS NOTED ABOVE. (RETURN WHITE COPY OF BILL WITH PAYMENT.)
- 2. PAYMENT OF THE ENTIRE ASSESSMENT WITH THE 2006 TAX BILL, INCLUDING A 6.0% PER ANNUM INTEREST CHARGE FROM DUE DATE TO 12/31/06.
- 3. PAYMENT IN 5 ANNUAL INSTALLMENTS ON THE PROPERTY TAX BILL, INCLUDING A 6.0% INTEREST CHARGE ON EACH SUCCEEDING UNPAID PRINCIPAL AMOUNT. THESE AMOUNTS WOULD BE APPLIED TO YOUR FUTURE TAX BILLS UNDER THIS PLAN.

TAX YEAR	PRINCIPAL	INTEREST	TOTAL
2006	212.40	53.10	265.50
2007	212.40	50.98	263.38
2008	212.40	38.23	250.63
2009	212.40	25.49	237.89
2010	212.40	12.74	225.14

- 4. PAYMENT IN 10 ANNUAL INSTALLMENTS ON THE PROPERTY TAX BILL, INCLUDING A 6.0% INTEREST CHARGE ON EACH SUCCEEDING UNPAID PRINCIPAL AMOUNT. ALL ASSESSMENTS OVER \$250.00 WHICH ARE NOT PAID UNDER PLANS #1, #2 OR #3 WILL AUTOMATICALLY BE BILLED IN THIS MANNER. YOU NEED NOT NOTIFY US. THESE AMOUNTS WOULD BE APPLIED TO YOUR FUTURE TAX BILLS UNDER THIS PLAN.

TAX YEAR	PRINCIPAL	INTEREST	TOTAL
2006	106.20	53.10	159.30
2007	106.20	57.35	163.55
2008	106.20	50.98	157.18
2009	106.20	44.60	150.80
2010	106.20	38.23	144.43
2011	106.20	31.86	138.06
2012	106.20	25.49	131.69
2013	106.20	19.12	125.32
2014	106.20	12.74	118.94
2015	106.20	6.37	112.57

NOTE: MAKE CHECKS PAYABLE TO THE CITY OF WEST ALLIS. RETURN WHITE COPY OF BILL WITH CHECK TO THE CLERK/TREASURER'S OFFICE. AFTER DUE DATE, TOTAL OR PARTIAL PAYMENTS WILL STILL BE ACCEPTED IN THE OFFICE OF THE CITY CLERK/TREASURER AT 6.0% INTEREST UNTIL 11/01/06.

OWNERS SIGNATURE _____

IF YOU DO NOT OWN THE ABOVE DESCRIBED PROPERTY, PLEASE RETURN THIS BILL IMMEDIATELY TO THE ENGINEERING DEPARTMENT, CITY HALL, LISTING THE NEW OWNER BELOW. THANK YOU.

NAME _____ ADDRESS _____



Juro Gajdosik
5833 W Beloit Rd
Milwaukee, WI 53219-1556

Common Council of the City of

West Allis

7525 W. Greenfield Ave.

West Allis, WI 53214

RECEIVED
JAN 18 2008
CITY OF WEST ALLIS
ENGINEERING DEPT

Juro J. Gajdosik
5833 W. Beloit Road
West Allis, WI 53219
414 213-8115 cellular

RECEIVED
JAN 18 2008
CITY OF WEST ALLIS
CLERK/TREASURER

January 18, 2008

Charles Ruud
Head of the assessor's office
City of West Allis
7525 W. Greenfield Avenue
West Allis, WI 53214

RE: Tax key no. 455-0101-000-8
5833 West Beloit Road

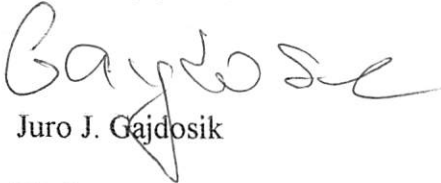
Dear Mr. Ruud:

I am in receipt of a special tax assessment dated January 28, 2006. I purchased the property in 2007. Before purchasing the property, we asked whether there were any special assessments on the property. You did not disclose this assessment. I purchased the property based on your office's representation that no such lien existed.

Because it was my understanding that there were no property liens or assessments pending, based on your representations, your proper recourse might lie with the property's former owner, but it is not with me. I have attached a copy of your Statement of Real Estate Property Taxes which states that there are no liens or assessments, and a copy of your 2006 special assessment.

Please, contact me with any questions or comments you may have. Thank you in advance for your consideration.

Very truly yours,



Juro J. Gajdosik

Enclosures: Statement of Real Estate Property Taxes
Special Assessment Billing dated 2006

RECEIVED
JAN 18 2008
CITY OF WEST ALLIS
ASSESSOR'S OFFICE

CITY OF WEST ALLIS
7525 West Greenfield Avenue
West Allis, Wisconsin 53214
STATEMENT OF REAL ESTATE PROPERTY TAXES

RE: 0701A0410 Jennifer

TAX Key No. 455-0101-000-8 Address 5833 West Beloit Road

- ASSESSMENT AND TAXES – INCLUDED WITH ATTACHED TAX BILL COPY**
 (Please check with Milwaukee County Treasurer for status of prior years taxes)
- OUTSTANDING SPECIAL ASSESSMENTS**

Improvement	Years	Principal	Interest*	Total
<i>None out of 11-07 ap 59-07</i>				

* Interest at _____ % figured to _____

PENDING SPECIAL ASSESSMENTS AND MISC CHARGES

no miscellaneous charges K Engel 5/9/07

No blousing + Econ. Development Loans 5-9-07 ap

No proposed or pending special assessments as of 5/9/07 me.

WATER BILLING

Account Number 17851-17476 Balance 0 Date Due _____

Amount of Last Bill 83.94 Last Month Read 2-16-07

Next Quarterly Reading May (all amounts include water and sewer)

FINAL READING MUST BE OBTAINED FROM UTILITY 302-8830 8245 K Engel 5-9-07

DEFERRED SEWER AND WATER CHARGES

N/A

FLOOD PLAIN

Property located in a flood plain? no me/me 5/9/07

OTHER INFORMATION REQUESTED (Specify)

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Requested by:

Wisconsin Title Service, Inc Attn Order Entry Signature _____
 1716 Paramount Drive
 Waukesha WI 53186

Make check for \$25.00 payable to: CITY OF WEST ALLIS – Mail to CITY CLERK 7525 W Greenfield Ave West Allis WI 53214 with a self-addressed, stamped envelope
 T2/TPS15WI REV 12/05



Juro Gajdosik
5833 W Beloit Rd
Milwaukee, WI 53219-1556

CHARLES RUUD
HEAD OF THE ASSESSOR'S OFFICE
CITY OF WEST ALLIS
7525 W. GREENFIELD AVE
WEST ALLIS, WI 53214

CITY OF WEST ALLIS ENGINEERING DEPARTMENT
 7525 W GREENFIELD AVE WEST ALLIS, WI 53214
 PHONE: 414-302-8358

SPECIAL ASSESSMENT BILLING

ASMT. NO. 06-0014
 KEY NO. 455-0101-000

AMSOEN BRADLEY T & ANNA
 5633 W BELOIT RD
 WEST ALLIS 53219

BILLING DATE: JAN 28, 2006
 DUE DATE: FEB 28, 2006

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TOTAL AMOUNT DUE					1,062.00

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OWNERS SIGNATURE-----

IF YOU DO NOT OWN THE ABOVE DESCRIBED PROPERTY, PLEASE RETURN THIS BILL IMMEDIATELY TO THE ENGINEERING DEPARTMENT, CITY HALL, LISTING THE NEW OWNER BELOW. THANK YOU.

NAME-----ADDRESS-----



Wisconsin Title, Closing & Credit Services

Corporate Office
1716 Paramount Drive
Waukesha, WI 53186
(262) 542-1700 (800) 242-2177
Fax: 262-542-3080

Closing
(262) 542-1713
Fax: (262) 542-4796

Credit
(262) 896-8900
Fax: (262) 896-8910

www.wititle.com

Fax

To: Laura From: Jeffrey Disha

Fax: 414-302-8207 Pages: _____

Phone: _____ Date: _____

Re: _____ CC: _____

- Urgent For Review Please Comment Please Reply Please Recycle

• Comments: Please call me after review.

Jeff
262-524-6642

CITY OF WEST ALLIS
7525 West Greenfield Avenue
West Allis, Wisconsin 53214
STATEMENT OF REAL ESTATE PROPERTY TAXES

RE: 0701A0410 Jennifer

TAX Key No. 455-0101-000-8 Address 5833 West Beloit Road

- ASSESSMENT AND TAXES - INCLUDED WITH ATTACHED TAX BILL COPY
OUTSTANDING SPECIAL ASSESSMENTS

Table with columns: Improvement, Years, Principal, Interest*, Total. Handwritten entry: None as of 11-07 ap 59-07

- PENDING SPECIAL ASSESSMENTS AND MISC CHARGES

no miscellaneous charges K Engel 5/9/07
No Housing + Econ. Development Loans 5-9-07 ap
No proposed or pending special assessments as of 5/9/07 ms.

WATER BILLING

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Next Quarterly Reading May (all amounts include water and sewer)

FINAL READING MUST BE OBTAINED FROM UTILITY 302-8830 8245 K Engel 5-9-07

DEFERRED SEWER AND WATER CHARGES

N/A

FLOOD PLAIN

Property located in a flood plain? No MBL/ms 5/9/07

OTHER INFORMATION REQUESTED (Specify)

NOTE: It is hereby expressly understood that this memorandum statement is issued subject to errors and omissions and shall not be binding upon the City of West Allis.

Requested by:

Wisconsin Title Service, Inc Attn Order Entry
1716 Paramount Drive
Waukesha WI 53186

Signature
Phone 262-542-1700

Make check for \$25.00 payable to: CITY OF WEST ALLIS - Mail to CITY CLERK 7525 W Greenfield Ave West Allis WI 53214 with a self-addressed, stamped envelope
T2/TPS15WI REV 12/05

Oper: JSCHILLING Type: CC Drawer: 1
Date: 5/09/07 01 Receipt no: 43449
4550101

DN CLK PROPERTY STA 1	\$25.00
WISCONSIN TITLE SERVICE	
CK CHECK PA 26946	\$25.00
Total tendered	\$25.00
Total payment	\$25.00

Trans date: 5/09/07 Time: 13:06:34



CITY CLERK/TREASURER'S OFFICE

414/302-8200 or 414/302-8207 (Fax)

www.ci.west-allis.wi.us

Paul M. Ziehler

City Admin. Officer, Clerk/Treasurer

Monica Schultz

Assistant City Clerk

Rosemary West

Treasurer's Office Supervisor

January 23, 2008

Mr. Juro J. Gajdosik
5833 W. Beloit Rd.
West Allis, WI 53219

Dear Mr. Gajdosik:

This letter acknowledges receipt of your communication regarding the special assessment for the property at 5833 W. Beloit Rd.

The original document will be submitted to the Common Council at its meeting of February 5, 2008.

It is not anticipated that a decision regarding this matter will be made on this date. Generally, all communications are directed to the City Attorney's office for investigation. Common Council action regarding your communication will not be taken until the City Attorney's investigation is completed. Any questions you may have regarding this matter should be directed to their attention.

Sincerely,

A handwritten signature in cursive script that reads "Monica Schultz".

Monica Schultz
Assistant City Clerk

/amn

cc: City Attorney



OFFICE OF THE CITY ATTORNEY

Scott E. Post
City Attorney

Sheryl L. Kuhary
Jeffrey J. Warchol
Jenna R. Merten
Assistant City Attorneys

March 19, 2008

Common Council
City of West Allis

RE: City Attorney's Report of Claims/Lawsuits

Dear Council Members:

The enclosed claims/lawsuits have been referred to this office in accordance with Section 3.05 (6)(a) of the Revised Municipal Code. This office has examined the facts of each claim/lawsuit and the applicable law. Our Opinion regarding liability is attached to each claim/lawsuit.


The following claims/lawsuits have been placed on file:

Erin McGinley (\$777.85)
Corey Brozovich (\$3,435.66)

The following claims/lawsuits have been denied:

Sarah J. Lerand (\$549.89)
Paul Martens (\$2,120.00)
Juro J. Gajdosik (Assessment Removal)

Respectfully submitted,



Jeffrey J. Warchol
Assistant City Attorney

JJW:da
Enclosures

cc: Thomas E. Mann, CVMIC



CITY ADMINISTRATIVE OFFICE

PAUL M. ZIEHLER

City Administrative Officer
Clerk/Treasurer

414/302-8294

414/302-8207 (Fax)

City Hall

7525 West Greenfield Avenue
West Allis, Wisconsin 53214

pziehler@ci.west-allis.wi.us

www.ci.west-allis.wi.us

NOTICE OF DISALLOWANCE OF CLAIM

April 3, 2008

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Juro J. Gajdosik
5833 West Beloit Road
West Allis, WI 53219

Re: Your Claim Against the City of West Allis

Dear Mr. Gajdosik:

At its meeting on March 31st, 2008, the Common Council of the City of West Allis considered your claim received on January 22nd, 2008, regarding a special assessment tax for 2006 and denied it in full.

Please be advised that no lawsuit may be brought on this claim against the City of West Allis or any of its officials, officers, agents or employees after six (6) months from the date of receipt of this letter.

Sincerely,

Paul M. Ziebler
City Administrative Officer
Clerk/Treasurer

PMZ:da
L:\jeff\claims\denialLtrs\ltr-denial-J Gajdosik

cc: City Attorney's Office
City Clerk's Office