

SERVICE AND PROCESSING OF CLAIMS

Plaintiff or Claimant: Felker Family LP vs CofWA
2019 CV00708

Date: 10/9/19

In-person

Process Server

Claimant

Other _____

By mail

By email

By fax

Received by: Slemanski

➤ 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

FILED
09-16-2019
John Barrett
Clerk of Circuit Court
2019CV007108
Honorable Christopher R.
Foley-14
Branch 14

STATE OF WISCONSIN
CIRCUIT COURT
MILWAUKEE COUNTY

FELKER FAMILY LP,
19275 W. Capitol Drive
Brookfield, WI 53045,

Plaintiff,

v.

Case No. _____
Money Judgment - 30301

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

Defendant.

SUMMONS

STATE OF WISCONSIN:

To each entity named above as Defendant:

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

Within 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 or electronically filed with the Court, whose address is 901 North 9th Street, Room 104, Milwaukee, Wisconsin 53233, and to plaintiff's attorneys, Reinhart Boerner Van Deuren s.c., whose address is 22 East Mifflin Street, Suite 700, Madison, Wisconsin 53703. You may have an attorney help or represent you.

If you do not provide a proper answer within 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 16th day of September, 2019.

Reinhart Boerner Van Deuren s.c.
22 East Mifflin Street, Suite 700
Madison, WI 53703
Telephone: 608-229-2200
Facsimile: 608-229-2100

Mailing Address:
P.O. Box 2018
Madison, WI 53701-2018

Electronically signed by Don M. Millis

Don M. Millis
State Bar ID No. 1015755
Sara Stellpflug Rapkin
State Bar ID No. 1076539
Shawn E. Lovell
State Bar ID No. 1079801
Attorneys for Plaintiff

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COMPLAINT

Plaintiff Felker Family LP ("Plaintiff"), by its undersigned counsel, Reinhart Boerner Van Deuren s.c., for its Complaint against the defendant City of West Allis (the "City"), alleges as follows:

NATURE OF ACTION AND PARTIES

1. This action is brought under Wis. Stat. § 74.37(3)(d), for a refund of excessive real estate taxes imposed on Plaintiff by the City for the year 2019, plus statutory interest, with respect to a parcel of real property in the City (the "Property").
2. Plaintiff is the owner on 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.
3. The City is a body corporate and politic, duly organized as a municipal corporation under Wisconsin law, with its principal office located at 7525 West Greenfield Avenue in the City.

4. The Property is located at 333 South 108th Street in the City and is identified in the City's records as Tax Parcel No. 414-9990-001.

JURISDICTION AND VENUE

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

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

BACKGROUND FACTS

2019 Assessment - Background Facts

7. The aggregate ratio of property assessed in the City as of January 1, 2019 has not been determined as of the date of filing.

8. For 2018, property tax was imposed on property in the City at the rate of \$28.277623 per \$1,000 of assessed value for the Property.

9. For 2019, the City's assessor set the assessment of the Property at \$6,255,700.

10. Plaintiff appealed the 2019 assessment of the Property by filing a timely objection with the City'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).

11. By virtue of hearing waiver pursuant to Wis. Stat. § 70.47(8m) the Board of Review sustained the 2019 assessment on the merits without hearing at \$6,255,700. A true and correct copy of the 2019 Stipulation Waiving Hearing is attached hereto as **Exhibit A** and is incorporated herein by reference.

12. Assuming the 2019 mill rate will be essentially the same as the 2018 mill rate, the City will impose tax on the Property in the amount of \$176,896.

CLAIM FOR RELIEF

13. The allegations of paragraphs 1-12 are incorporated as if fully re-alleged herein.

2019 Assessment - Claim for Relief

14. The fair market value of the Property as of January 1, 2019 is no higher than \$5,000,000.

15. Assuming an aggregate ratio of 100% of the correct assessment of the Property for 2019 is no higher than \$5,000,000.

16. Assuming a tax rate of \$28.277623 per \$1,000 of assessed value, the correct amount of property taxes on the Property for 2019 is no higher than \$141,388.

17. The 2019 assessment of the Property, as set by the City's Assessor and compared with other commercial properties in the City was excessive and, upon information and belief, violated Article VIII, Section 1 (i.e., the Uniformity Clause) of the Wisconsin Constitution. As a result, the property tax imposed on the Property for 2019 may be excessive in at least the amount of \$35,508.

18. Upon information and belief the City will take the position that the assessment of property in the City is at market values and, if true, then an over assessment of the Property constitutes a Uniformity Clause violation. As a result of the assessment of the Property, the Property bears an unreasonably disproportionate share of taxes on an ad valorem basis.

19. Plaintiff is entitled to a refund of 2019 tax in the amount of at least \$35,508, or such greater amount as may be determined to be due to Plaintiff, plus statutory interest.

WHEREFORE, Plaintiff respectfully requests the following relief:

A. A determination that the assessment of the Property for 2019 should be no higher than \$5,000,000;

B. A determination that the correct taxes on the Property for 2019 should be no higher than \$141,388;

C. Judgment in the amount of \$35,508, or such greater amount as may be determined due to Plaintiff, plus statutory interest;

D. An award of all litigation costs incurred by Plaintiff in this action, including the reasonable fees of its attorneys; and

E. Such other and further relief as the Court deems appropriate and just.

Dated this 16th day of September, 2019.

Reinhart Boerner Van Deuren s.c.
22 East Mifflin Street, Suite 700
Madison, WI 53703
Telephone: 608-229-2200
Facsimile: 608-229-2100

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P.O. Box 2018
Madison, WI 53701-2018

42306535

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State Bar ID No. 1015755
Sara Stellpflug Rapkin
State Bar ID No. 1076539
Shawn E. Lovell
State Bar ID No. 1079801
Attorneys for Plaintiff

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 1st 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 West Allis	County Milwaukee
Requestor's name Felker Family LP	Agent name (if applicable) * Reinhart Boerner Van Deuren s.c. including but not limited, Don Millis, Shawn Lovell, Sara Rapkin
Requestor's mailing address 333 S. 108th Street West Allis, WI	Agent's mailing address 22 E. Mifflin Street, Suite 700 Madison, WI 53703
Requestor's telephone number () - <input type="checkbox"/> Land Line <input type="checkbox"/> Cell Phone	Agent's telephone number (608) 229 - 2200 <input checked="" type="checkbox"/> Land Line <input type="checkbox"/> Cell Phone
Requestor's email address	Agent's email address dmillis@reinhartlaw.com

Property address 333 S 108th Street	
Legal description or parcel number 414-9990-001	
Taxpayer's assessment as established by assessor - Value as determined due to waiving of BOR hearing \$6,255,700	
Property owner's opinion of value \$5,000,000	
Basis for request Previously in litigation, litigation will be likely in this matter.	
Date Notice of Intent to Appear at BOR was given 7 -09 - 2019	Date Objection Form was completed and submitted 7-11 - 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 with 60 days of the receipt of the notice of the waiving of the hearing.

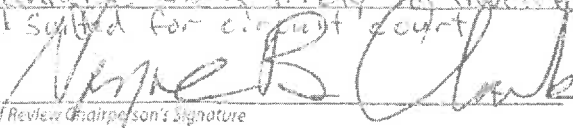

Requestor's / Agent's Signature

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

Decision

Approved Denied

Reason: the property is unique and is likely to involve a very complex valuation process more well suited for circuit court


Board of Review Chairperson's Signature Date 7-11-19

Taxpayer advised 7-18-19
Date

