

**STATE OF WISCONSIN**

**CIRCUIT COURT**

**MILWAUKEE**

Element 84 LLC vs. City of West Allis

**Electronic Filing  
Notice**

Case No. 2021CV005023  
Class Code: Money Judgment

FILED  
08-18-2021  
John Barrett  
Clerk of Circuit Court  
2021CV005023  
Honorable Carl Ashley-33  
Branch 33

CITY OF WEST ALLIS  
7525 W. GREENFIELD AVENUE  
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: August 18, 2021

am  
8/23





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STATE OF WISCONSIN

CIRCUIT COURT

MILWAUKEE COUNTY

**ELEMENT 84 LLC**

1665 WATER STREET  
MILWAUKEE, WISCONSIN 53202,

PLAINTIFF,

CASE No.  
MONEY JUDGMENT: 30301  
(over \$10,000)

v.

**CITY OF WEST ALLIS**

7525 W. GREENFIELD AVENUE  
WEST ALLIS, WISCONSIN 53214,

DEFENDANT.

**SUMMONS**

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 any 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. 9<sup>th</sup> St., Milwaukee, Wisconsin 53233, and to Nicholas J. Boerke of the law firm of Michael Best & Friedrich LLP, plaintiff's attorneys, whose address is 790 N. Water St., Suite 2500, 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 at Milwaukee, Wisconsin this 18th day of August 2021.

MICHAEL BEST & FRIEDRICH LLP  
Attorneys for Plaintiff

By: Electronically Signed by Nicholas J. Boerke  
NICHOLAS J. BOERKE  
Wisconsin Bar No. 1083217

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**COMPLAINT**

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Plaintiff, ELEMENT 84 LLC (“Plaintiff”), by its undersigned counsel, Michael Best & Friedrich LLP, for its Complaint against the Defendant, CITY OF WEST ALLIS (“City”), alleges as follows:

**NATURE OF ACTION AND PARTIES**

1. This action is brought under Wis. Stat. §§ 74.37(3)(d) and 70.47(8m), for a refund of unlawful and excessive property taxes imposed (or to be imposed) by the City on Plaintiff for tax year 2021, plus statutory interest, if and when applicable, with respect to a parcel of real property in the City (the “Property”).





2. The Property is located at 1482 S. 84<sup>th</sup> Street and 8290 W. Orchard Street in the City and is identified in the City's tax records as Parcel Number 452-0713-000.

3. Plaintiff is a Wisconsin limited liability company, with its principal office located at 1665 Water Street in the City of Milwaukee, is the owner of the Property, is responsible for the prosecution of property tax appeals involving the Property, and is authorized to bring this action in its name.

4. The 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 in the City.

#### **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) and (b).

#### **BACKGROUND FACTS**

7. Based upon the actual 2020 property tax rate, it is reasonably estimated that the City will impose taxes on property in the City at approximately the rate of \$27.90 per \$1,000.00 of assessed value.

8. For 2021, the assessment of the Property was set by the City's Assessor at \$28,548,400.

9. Plaintiff filed a timely objection to the City's \$28,548,400 assessment of the Property for 2021, pursuant to Wis. Stat. § 70.47 (the "Objection").



10. By letter dated June 22, 2021, the City's Board of Assessors notified Plaintiff of its determination to waive the hearing on the Objection allowing an appeal of the 2021 assessment to circuit court, pursuant to Wis. Stat. § 70.47(8m).

11. Pursuant to Wis. Stat. § 70.47(8m), the City's waiver of a hearing on the Objection effectively disallows Plaintiff's claim for excessive assessment under Wis. Stat. § 74.37(3).

12. Based on the City's 2021 assessment of the Property and the City's estimated 2021 tax rate, described above, the City will impose a net property tax of approximately \$796,500 on the Property for 2021.

#### **CLAIM FOR RELIEF**

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

14. The value of the Property as of January 1, 2021 was no higher than \$23,000,000.

15. The correct 2021 net property tax on the Property should be no higher than approximately \$641,700 using the estimated tax rate described above.

16. The City's 2021 assessment of the Property is excessive by at least \$5,548,400.

17. And, therefore, based on the City's estimated 2021 tax rate, described above, the net real estate property tax imposed by the City on the Property for tax year 2021 will be excessive in at least the amount of approximately \$154,800.

18. Plaintiff is entitled to a reduction in the assessment of the Property to a value no greater than \$23,000,000 and/or a refund of excessive and unlawful 2021 real estate taxes in at least the amount of \$154,800, or such greater amounts as may be determined to be due to Plaintiff, plus statutory interest, if and when applicable.



**WHEREFORE**, Plaintiff prays:

A. For a determination that the City's 2021 assessment of the Property should be no higher than \$23,000,000;

B. For a determination that the City's 2021 assessment of the Property was excessive in at least the amount of \$5,548,400;

C. For an order reducing the 2021 assessment of the Property to an amount no greater than \$23,000,000 and/or judgment in favor of Plaintiff and against the City the amount of \$154,800, or such greater amount as may be determined to be due to Plaintiff, plus statutory interest;

D. For an award of all litigation costs incurred by Plaintiff in this action, including, but not limited to, the reasonable fees of its attorneys; and

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

Dated at Milwaukee, Wisconsin this 18th day of August 2021.

MICHAEL BEST & FRIEDRICH LLP  
Attorneys for Plaintiff

By: Electronically Signed by Nicholas J. Boerke  
NICHOLAS J. BOERKE  
Wisconsin Bar No. 1083217

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