

STATE OF WISCONSIN

CIRCUIT COURT

MILWAUKEE COUNTY

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**80 WEST ALLIS, LLC**  
6938 N. SANTA MONICA BLVD.  
FOX POINT, WISCONSIN 53217

PLAINTIFF,

v.

CASE No. 2023-CV-4528  
MONEY JUDGMENT: 30301  
(OVER \$10,000)

**CITY OF WEST ALLIS**  
7525 W. GREENFIELD AVENUE  
WEST ALLIS, WISCONSIN 53214

DEFENDANT.

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### **AMENDED COMPLAINT**

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Plaintiff, 80 West Allis, LLC (hereinafter “80 West”) by its undersigned counsel, von Briesen & Roper, s.c., for its Amended Complaint against Defendant, City of West Allis (hereinafter, 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 property taxes to be imposed on 80 West by the City for the tax year 2023, plus statutory interest, with respect to a parcel of real property located at 1414 S. 65<sup>th</sup> Street in the City (the “Property”).

2. 80 West Allis, LLC is a limited liability company organized and existing under the laws of the State of Wisconsin, with its principal office at 6938 N. Santa Monica Boulevard, Fox Point, Wisconsin.

3. 80 West is the owner of the Property and is responsible for the payment of real estate property taxes and the prosecution of property tax disputes involving the Property and is authorized to bring this action in its own name.

4. The City is a body corporate and politic, organized as a municipal corporation under Wisconsin law, with its principal office located at 7525 W. Greenfield Avenue, West Allis, Wisconsin.

5. The Property is identified on the City's tax records as Parcel Number 454-0635-001.

#### **JURISDICTION AND VENUE**

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

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

#### **BACKGROUND FACTS**

8. For 2022, property tax was imposed on property in the City at the mill rate of \$28.231353 per \$1,000 of assessed value. The 2023 mill rate is not yet known.

9. For 2023, the City's Assessor set the assessment of the Property at \$4,329,300 as of January 1, 2023.

10. 80 West appealed the 2023 assessment of the Property by timely filing an objection with the City, pursuant to Wis. Stat. § 70.47(16), and otherwise complying with all requirements of Wis. Stat. § 70.47.

11. On April 26, 2023, the Board of Review waived the hearing and sustained the assessment at \$4,329,300, a copy of which is attached hereto and incorporated herein as Exhibit A.

12. Pursuant to Wis. Stat. § 70.47(8m), 80 West has timely commenced this action within sixty days of receipt of the notice of hearing waiver.

13. Based on the City's 2022 tax rate and 2023 assessment of the Property herein described, the City will impose a property tax of \$122,222.00 on the Property. The exact proposed property tax for 2023 will not be known until the 2023 mill rate has been determined.

**FIRST CLAIM FOR RELIEF**  
**VALUE AND ASSESSMENT**

14. The allegations of paragraphs 1-13 are incorporated as if fully realleged herein.

15. The full value of the Property as of January 1, 2023 was no higher than \$4,570,900, which value was derived from the net income generated by the Property, minus the value of a separately assessed parking area.

16. Based on a 63.50% ratio, which is the projected general level of assessment in the City for 2023, the estimated asserted full value of the Property for 2023 will be \$6,817,800, and the assessment will be \$4,329,300, instead of \$2,902,500.

17. As a result, the projected 2023 full value of the Property is excessive by approximately \$2,246,900 and the assessment will be excessive by \$1,426,800.

**SECOND CLAIM FOR RELIEF**  
**UNIFORMITY**

18. The allegations of paragraphs 1-17 are incorporated as if fully realleged herein.

19. The 2023 general level of assessment is projected to be 63.50%.

20. Properties valued by the Wisconsin Department of Revenue (hereinafter “DOR”) within the City will be assessed for 2023 at 63.50% of their full value and will be assessed at no more than 63.50% of their full value, while the Property has been assessed at 94.71% of its full value.

21. The 2023 assessment of the Property will not be uniform with the assessment of all other properties in the City, and therefore the City has violated the Uniformity Clause of the Wisconsin Constitution, Article VIII, § 1.

22. The 2023 assessment of the Property should be equal to its full value multiplied by the 2023 general level of assessment in the City, projected to be 63.50%, to achieve uniformity with other properties in the City.

23. At a value of \$4,570,900 multiplied by the current projected general level of assessment, the assessed value of the Property would be \$2,902,500.

24. The correct estimated property tax to be imposed on the Property for tax year 2023 is approximately \$81,941.50.

25. 80 West will be entitled to a refund of approximately \$40,280.50, plus statutory interest.

**WHEREFORE**, 80 West requests that the Court enter judgment as follows:

A. For a determination that the 2023 assessment of the Property is not uniform with the assessment of other properties in the City and is in violation of the Wisconsin Constitution;

B. For an order directing the City to reduce 80 West’s 2023 assessment to an amount equal to its full value multiplied by the final 2023 general level of assessment in the City and, if 2023 taxes are paid, for an appropriate refund of excessive taxes.

C. For an award of all litigation costs incurred by 80 West in this action, including the reasonable fees of its attorneys; and

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

Dated at Milwaukee, Wisconsin this 31st day of August, 2023.

**VON BRIESEN & ROPER, s.c.**  
Attorneys for Plaintiff

By: Electronically signed by Alan Marcuvitz  
Alan Marcuvitz, SBN 1007942  
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**City Clerk**  
City Clerk's Office  
clerk@westalliswi.gov  
414.302.CITY

OFFICE OF CITY CLERK  
CITY OF WEST ALLIS, WISCONSIN

Wednesday, April 26, 2023

von Briesen & Roper S.C.  
411 E. Wisconsin Avenue, Ste. 1000  
Milwaukee, WI 53202

**RE: Notice of Decision:  
80 West Allis, LLC  
City of West Allis Board of Review 2023 Property Assessment Objection Decision**

The City of West Allis Board of Review (BOR) convened on April 26, 2023, and approved the Assessor's request to waive the hearing for Objection to Real Property Assessment, allowing you to appeal directly to Circuit Court, pursuant to Wis. Stat. §70.47(8m) for the following parcel:

| PARCEL #     | PROPERTY OWNER     | ASSESSED VALUE |
|--------------|--------------------|----------------|
| 454-0635-001 | 80 West Allis, LLC | \$4,329,300    |

As a result, a hearing will not be scheduled before the BOR for your objections. By operation of law and pursuant to Wis. Stat. § 70.47(8m), the assessed values remain as identified above. The taxpayer has 60 days from the notice of hearing waiver in which to commence an action under §70.47(8m).

If you have any further questions, please send an email to [clerk@westalliswi.gov](mailto:clerk@westalliswi.gov).

Respectfully,

Rebecca Grill  
City Administrator/Clerk

**Delivered via email to [craig.salzer@vonbriesen.com](mailto:craig.salzer@vonbriesen.com) & [alan.marcuvitz@vonbriesen.com](mailto:alan.marcuvitz@vonbriesen.com)**