

FILED
09-13-2019
John Barrett
Clerk of Circuit Court
MILWAUKEE COUNTY
2019CV007065
Honorable Timothy
Witkowiak-22
Branch 22

STATE OF WISCONSIN

CIRCUIT COURT

MILWAUKEE COUNTY

WEST ALLIS HOTEL VENTURES LLC,
631 Cedar Street
Wisconsin Dells, WI 53965

Plaintiff,

v.

CITY OF WEST ALLIS,
7525 W. Greenfield Ave.
West Allis, WI 53214,

Defendant.

Case No. _____

Case Code: 30301

Case Type: Money Judgment

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 45 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, WI 53233, and to plaintiff's attorney, Eric J. Hatchell, Foley & Lardner LLP, 150 E. Gilman Street, P.O. Box 1497, Madison, WI 53701-1497. You may have an attorney help or represent you.

If you do not provide a proper answer within 45 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 13th day of September, 2019.

FOLEY & LARDNER LLP

s/ Eric J. Hatchell

Eric J. Hatchell (WI Bar No. 1082542)

FOLEY & LARDNER LLP

150 E. Gilman Street

P.O. Box 1497

Madison, WI 53701-1497

(608) 257-5035 (telephone)

(608) 258-4258 (facsimile)

Attorneys for the Plaintiff

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COMPLAINT

Plaintiff, by its undersigned attorneys, Foley & Lardner LLP, as and for its Complaint against the defendant, City of West Allis (“City”), hereby alleges and shows to the Court as follows:

NATURE OF ACTION AND PARTIES

1. This is an action brought pursuant to Wis. Stat. § 74.37(3)(d) to recover a refund of future 2019 real property taxes that will be imposed because of the excessive assessment of the real property described below.

2. Plaintiff owns the parcel of real property located in the City known as tax key # 452-0710-000, located at 8201 W. Greenfield Avenue, Greenfield, Wisconsin (the “Subject Property”). The Hampton Inn & Suites Milwaukee West is located on the Subject Property.

3. The defendant City is a body corporate and politic, duly organized as a municipal corporation under Wisconsin law.

CLAIM FOR RELIEF

4. For the 2019 tax year, the City assessed the Subject Property at \$13,121,200 (“the 2019 assessment”). This was nearly a 66% increase from the 2018 assessment of \$7,905,700.

5. The 2019 assessment was excessive and exceeded the fair market value of the Subject Property.

6. Plaintiff timely provided notice of its intent to object to the assessment and filed its Objection to Real Property Assessment, stating its opinion that the fair market value of the Subject Property did not exceed \$8,128,400.

7. Pursuant to Wis. Stat. § 70.47(8m), the City’s assessor requested a waiver of the board of review hearing, because according to the assessor, the Subject Property “is unique and likely to involve a very complex valuation process more well-suited for circuit court.” The Board of Review granted the assessor’s waiver request, and notice was provided to the Plaintiff on July 18, 2019. A copy of the approved Request for Waiver of Board of Review Hearing is attached as **Exhibit A**.

8. Under Wisconsin law, the waiver of board of review hearing satisfies the taxpayer’s obligation to file a claim with the municipality prior to filing an excessive assessment lawsuit in circuit court. A taxpayer has 60 days from the notice of the hearing waiver to commence the action, which requires the taxpayer to initiate the lawsuit prior to the issuance of the relevant tax bill.

9. For 2018, the \$7,905,700 assessed value resulted in a net property tax payment due of \$217,215.17. A copy of the 2018 tax bill is attached as **Exhibit B**.

10. The excessive assessment of the Subject Property will result in the imposition of excessive taxes in the amount to be determined after the issuance of the 2019 tax bill. Based on 2018 net assessed value rate, Plaintiff's damages based on the 2019 excessive assessment likely will exceed \$143,000.

11. Plaintiff is timely filing this *de novo* refund action pursuant to Wis. Stat. § 74.37(3)(d). Plaintiff is entitled to a refund of the excessive 2019 property taxes that will be imposed for the Subject Property based on the 2019 assessment, plus statutory interest.

WHEREFORE, Plaintiff respectfully requests that this Court enter Judgment in its favor and against the City awarding Plaintiff:

- A. A refund of a portion of its 2019 property taxes as is supported by the evidence, together with statutory interest;
- B. Its costs, disbursements and attorneys' fees of this action; and
- C. Such other and further relief as this Court deems just and equitable.

Dated this 13th day of September, 2019.

FOLEY & LARDNER LLP

s/ Eric J. Hatchell

Eric J. Hatchell (WI Bar No. 1082542)

FOLEY & LARDNER LLP

150 E. Gilman Street

P.O. Box 1497

Madison, WI 53701-1497

(608) 257-5035 (telephone)

(608) 258-4258 (facsimile)

Attorneys for the 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 City of West Allis	County Milwaukee
Requestor's name Jason Williams, City Assessor	Agent name (if applicable)*
Requestor's mailing address 7525 W. Greenfield Ave. West Allis, WI 53214	Agent's mailing address
Requestor's telephone number (414) 302 - 8230	Agent's telephone number
<input checked="" type="checkbox"/> Land Line <input type="checkbox"/> Cell Phone	<input type="checkbox"/> Land Line <input type="checkbox"/> Cell Phone
Requestor's email address assessor@westalliswi.gov	Agent's email address

Property address 8201 W. Greenfield Ave.	
Legal description or parcel number 452-0710-000	
Taxpayer's assessment as established by assessor - Value as determined due to waiving of BOR hearing \$ 13,121,200	
Property owner's opinion of value \$ 8,128,400	
Basis for request	
Date Notice of Intent to Appear at BOR was given - -	Date Objection Form was completed and submitted 7 - 2 - 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.

[Handwritten Signature]
Requestor's/Agent's Signature

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

Decision

Approved Denied

Reason see attached

[Handwritten Signature]
Board of Review Chairperson's Signature

7-11-19
Date

Taxpayer advised 7-18-19
Date



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

STATE OF WISCONSIN
REAL ESTATE PROPERTY TAX BILL FOR 2018
CITY OF WEST ALLIS
MILWAUKEE COUNTY

Bill #: 239950
Parcel #: 452-0710-000
Alt. Parcel #:



Check For Billing Address Change.

WEST ALLIS HOTEL VENTURES LLC
631 CEDAR ST
WISCONSIN DELLS WI 53965

Total Due For Full Payment \$217,215.17
Pay to Local Treasurer By Jan 31, 2019

Table with 2 columns: 1ST INSTALLMENT, 2ND INSTALLMENT, 3RD INSTALLMENT. Includes amounts like \$73,853.17 and \$71,681.00.

Amount Enclosed \$

STATE OF WISCONSIN
REAL ESTATE PROPERTY TAX BILL FOR 2018
CITY OF WEST ALLIS
MILWAUKEE COUNTY

BILL NUMBER: 239950

IMPORTANT: Correspondence should refer to parcel number.
See reverse side for important information.
Be sure this description covers your property. This description is for property tax bill only and may not be a full legal description.

ACRES: 3.187

WEST ALLIS HOTEL VENTURES LLC
631 CEDAR ST
WISCONSIN DELLS WI 53965

SEC 04, T 06 N, R 21 E
PLAT: N/A-NOT AVAILABLE
CERTIFIED SURVEY MAP NO 8563 LOT 1 NE 1/4 SEC 4-6-21

Property Address: 8201 W GREENFIELD AVE

Parcel #: 452-0710-000
Alt. Parcel #:

Table with columns: Assessed Value Land, Ass'd. Value Improvements, Total Assessed Value, Ave. Assmt. Ratio, Net Assessed Value Rate, Est. Fair Mkt. Land, Est. Fair Mkt. Improvements, Total Est. Fair Mkt., School taxes reduced by school levy tax credit, Taxing Jurisdiction, 2017 Est. State Aids, 2018 Est. State Aids, 2017 Net Tax, 2018 Net Tax, % Tax Change.

Make Check Payable to:
TREASURER
CITY OF WEST ALLIS
7525 W GREENFIELD AVE
WEST ALLIS WI 53214
414.302.8221

Full Payment Due On or Before January 31, 2019 \$217,215.17
Or pay the following installments to:
73853.17 DUE BY 01/31/2019
71681.00 DUE BY 03/31/2019
71681.00 DUE BY 05/31/2019

Net Property Tax 217,215.17



TOTAL DUE FOR FULL PAYMENT
Pay By January 31, 2019 \$ 217,215.17
Warning: If not paid by due dates, installment option is lost and total tax is delinquent subject to interest and, if applicable, penalty. Failure to pay on time. See reverse.

PA-6868 (R. 8-15)