



City Attorney's Office

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January 24, 2018

Common Council
City of West Allis

RE: City Attorney's Report of Claim – **Sam's Real Estate Business Trust**

Dear Council Members:

The enclosed claim has been referred to this office in accordance with Section 3.05(8) of the Revised Municipal Code. This office has examined the facts of the claim and the applicable law. This office's recommendation is to deny the claim based on the summary below:

Facts: On January 1, 2017, the City of West Allis assessed Sam's Club, located at 1540 South 108th Street in the City of West Allis, at \$11,061,800 for its real property assessment. Sam's Club filed an objection to the assessment with the Board of Review on or about May 17, 2017 and claimed that the true valuation of the property was \$7,200,000. On June 1, 2017, the Board of Review held a hearing on Sam's Club's objection and determined that the property's assessment value was \$10,210,000, with a resulting tax bill of \$288,639.81. Sam's Club failed to appeal the Board of Review's decision to circuit court and paid its real estate taxes on January 22, 2018.

Claim: Sam's Real Estate Business Trust is claiming that its 2017 assessment was excessive and is requesting a refund of \$81,451.17.

Analysis: The claim should be denied. Per Wis. Stat. Sec. 74.37(4)(a), a claimant may not file a claim for excessive assessment without going through the Board of Review process first. Although Sam's Club did initially participate in the Board of Review process, it failed to appeal the Board's decision to circuit court. Per *Hermann v. Town of Delavan*, a claimant must exhaust its remedies before it can seek further judicial relief. Since Sam's Club did not do so, it is precluded from pursuing an excessive assessment claim.

Therefore, based on the above analysis, the City Attorney Office's recommendation is to deny this unmeritorious claim.

Respectfully submitted,

A handwritten signature in blue ink that reads "Jenna Merten". The signature is written in a cursive, flowing style with a large initial "J" and "M".

Jenna Merten
Deputy City Attorney