

75.



City of West Allis Matter Summary

7525 W. Greenfield Ave.
West Allis, WI 53214

File Number	Title	Status
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2010-0162 **Summons and Complaint** **In Committee**

Summons and Complaint in the matter of the complaint against Mr. Gyros Café & Grill, LLC, James P. Wood, Agent, d/b/a Mr. Gyros relative to Food-Related Permit.

Introduced: 3/23/2010

Controlling Body: License & Health Committee

PLACE ON FILE

COMMITTEE RECOMMENDATION

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
JUL 06 2010		<input checked="" type="checkbox"/>	Barczak	<input checked="" type="checkbox"/>			
			Czaplewski	<input checked="" type="checkbox"/>			
			Kopplin				
			Lajsic				
			Narlock				
			Reinke				
		<input checked="" type="checkbox"/>		Roadt	<input checked="" type="checkbox"/>		
				Sengstock	<input checked="" type="checkbox"/>		
				Vitale			
			Weigel	<input checked="" type="checkbox"/>			
			TOTAL	5 0			

SIGNATURE OF COMMITTEE MEMBER


Chair

Vice-Chair

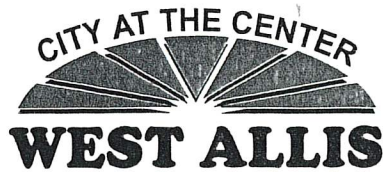
Member

PLACE ON FILE

COMMON COUNCIL ACTION

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
JUL 06 2010	<input checked="" type="checkbox"/>		Barczak				
			Czaplewski				
			Kopplin				
			Lajsic				
			Narlock				
		<input checked="" type="checkbox"/>		Reinke			
				Roadt			
				Sengstock			
				Vitale			
			Weigel				
			TOTAL				1

UNANIMOUS



CITY CLERK/TREASURER'S OFFICE

414/302-8200 or 414/302-8207 (Fax)

www.ci.west-allis.wi.us

Paul M. Ziehler

City Admin. Officer, Clerk/Treasurer

Monica Schultz

Assistant City Clerk

Rosemary West

Treasurer's Office Supervisor

April 20, 2010

James Wood
Mr. Gyros
10535 W. Greenfield Ave.
West Allis, WI 53214

Dear Mr. Wood:

Please note that your permit to operate Mr. Gyro's is being withheld due to your failure to pay, as per agreement, Personal Property Taxes owed to the City of West Allis. As of July 1, 2009, you are operating your establishment without a license and in violation of the City's ordinances.

As a result of the above, the Chairman of the License & Health Committee orders that you appear at its meeting on Tuesday, April 20, 2010, at 6:00 P.M. in Room 128, West Allis City Hall, 7525 W. Greenfield Ave., West Allis, WI. Failure to appear may result in the City commencing an action seeking the ultimate revocation of your license.

Sincerely,

Monica Schultz
Assistant City Clerk

/amn



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414/302-8200 or 414/302-8207 (Fax)

www.ci.west-allis.wi.us

Paul M. Ziehler

City Admin. Officer, Clerk/Treasurer

Monica Schultz

Assistant City Clerk

Rosemary West

Treasurer's Office Supervisor

March 17, 2010

James Wood
Mr. Gyros
10535 W. Greenfield Ave.
West Allis, WI 53214

Dear Mr. Wood:

Please note that your permit to operate Mr. Gyro's is being withheld due to your failure to pay, as per agreement, Personal Property Taxes owed to the City of West Allis. As of July 1, 2009, you are operating your establishment without a license and in violation of the City's ordinances.

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Sincerely,

Monica Schultz
Assistant City Clerk

/amn

license(s) be suspended or revoked will be made to the full Common Council. The Common Council may then vote to suspend, revoke, or not renew your license(s).

You are further notified that if you appear as required by this summons and contest the allegations in the complaint, a hearing will be scheduled at a later date before the License and Health Committee, at which time you may be represented by counsel, cross examine the witnesses who testify adversely against you, and present witnesses in your own behalf. A written transcript of said hearing shall be made and you may obtain a copy of the transcript of this proceeding at your expense.

Dated at West Allis, Wisconsin, this 15th day of March, 2010.

WEST ALLIS COMMON COUNCIL

By:



Paul M. Ziehler, City Administrative Officer,
Clerk/Treasurer

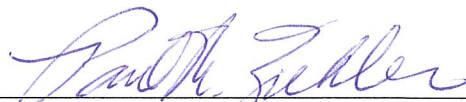
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Dated at West Allis, Wisconsin, this 19th day of April, 2010.

WEST ALLIS COMMON COUNCIL

By:

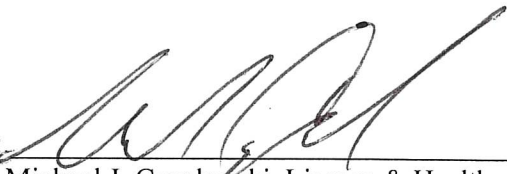

Paul M. Ziehler, City Administrative Officer,
Clerk/Treasurer

was assessed a personal property tax in the amount of \$2,144.36 in 2008.

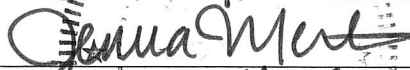
7. That on November 30, 2009, James Wood signed an agreement to pay his delinquent personal property taxes at the rate of \$250.00 per month. See attached Exhibit A.
8. That upon signing the agreement, Wood paid \$250.00, but never made the required monthly payments in January 2010 or February 2010.
9. That on August 12, 2008, Building Inspector Robert Woodard inspected Mr. Gyros Café & Grill, LLC's property at 10535 West Greenfield Avenue to determine whether the premises were up to code for an occupancy permit.
10. That Inspector Woodard found several deficiencies of the premises and sent a notice to Mr. Gyros Café & Grill, LLC to correct those violations. See attached Exhibit B.
11. That Mr. Gyros Café & Grill, LLC did not correct the violations, and the city attorney's office issued a summons and complaint for the code violation. See attached Exhibit C.
12. That the violations were never corrected, and a default judgment of \$5000 was entered against Mr. Gyros Café & Grill, LLC. See attached Exhibit D.
13. That as of today's date, Mr. Gyros Café & Grill, LLC has not paid that outstanding judgment and does not possess an occupancy permit.
14. That Mr. Gyros Café & Grill, LLC's failure to pay its personal property taxes, failure to pay its outstanding judgment to the City, and failure to possess a valid occupancy permit substantially relates to the licensed activity and is in violation of West Allis Revised Municipal Ordinances 1.08(9) and 13.33(2) and Wisconsin Statutes §§ 97.30, 254.69 and 254.74, and, therefore, is grounds for non-renewal, suspension, or revocation of its Food-Related Permit.

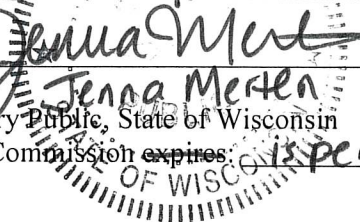
WHEREFORE, Michael J. Czaplewski, requests that Mr. Gyros Café & Grill, LLC, be summoned to appear before the License and Health Committee of the West Allis Common Council to answer this complaint and, if the material allegations of the complaint are denied, that a hearing be held to determine whether the Food-Related Permit of Mr. Gyros Café & Grill, LLC, should be revoked, suspended, or not renewed.

Dated at this 15 day of March, 2010.

By: 
Michael J. Czaplewski, License & Health
Committee
West Allis Common Council

Subscribed and sworn to before me
this 15th day of March, 2010.


(Jenna Merten)
Notary Public, State of Wisconsin
My Commission expires: is permanent



AGREEMENT

This **AGREEMENT** is made and effective as of the date signed below; by and amongst the City of West Allis, hereinafter referred to as "City," and Mr. Gyros Café and Grill, LLC, by registered agent James Wood, hereinafter referred to as "Mr. Gyros."

WHEREAS, on January 1, 2008, the City assessed and levied a 2007 personal property tax pursuant to Chapter 74 of the Wisconsin Statutes against Mr. Gyros in the amount of Two Thousand One Hundred Twenty-Three and 68/100 Dollars (\$2,123.68); and,

WHEREAS, on January 1, 2009, the City assessed and levied a 2008 personal property tax pursuant to Chapter 74 of the Wisconsin Statutes against Mr. Gyros in the amount of Two Thousand One Hundred Forty-Four and 36/100 Dollars (\$2,144.36); and,

WHEREAS, Mr. Gyros is delinquent in paying said personal property taxes along with interest and penalty for a total amount due of Five Thousand Seven Hundred Twelve and 98/100 (\$5,712.98), as of December 31, 2009; and,

WHEREAS, the City's Health Department withheld the issuance of a 2009-2010 health permit to Mr. Gyros until Mr. Gyros had paid said delinquent personal property taxes, interest, and penalty in full; and

WHEREAS, Mr. Gyros seeks to obtain a 2009-2010 health permit for Mr. Gyros as soon as possible so as to not interrupt its business operations for the current year;

NOW, THEREFORE, based upon the foregoing, the City and Mr. Gyros agree to the following:

Mr. Gyros agrees to pay the City for the 2007 and 2008 delinquent personal property taxes, hereinafter referred to as "taxes," along with interest and penalty as calculated through December 31, 2009, on the following terms:


1. Mr. Gyros will pay Two-Hundred and Fifty 00/100 Dollars (\$250.00) by December 1, 2009.
2. Mr. Gyros will make monthly payments of at least \$250.00 on or before the 30th of each month (except in February, it will be the 28th of the month) until the remaining balance on said taxes is paid in full. The remaining balance shall be paid in full before September 30, 2011.
3. All payments made as part of this Agreement shall be made payable to the City of West Allis and either personally delivered or mailed to the West Allis City Attorney's Office, c/o Jenna Merten, 7525 West Greenfield Avenue, West Allis, WI 53214.

Exhibit

A


4. Mr. Gyros further acknowledges that the 2009 personal property taxes for Mr. Gyros will be due on or before January 31, 2010. Mr. Gyros agrees to pay said 2009 taxes in full no later than September 30, 2011.

In the event that Mr. Gyros fails to adhere to the terms of this **AGREEMENT**, the City reserves its right to immediately revoke any and all health licenses granted to Mr. Gyros, without further notice, at which point Mr. Gyros would no longer be able to legally operate its business within the City of West Allis. In the event that the City takes action to revoke any licenses, Mr. Gyros maintains its right to appeal said revocation to the License and Health Committee of the City of West Allis.



James Wood
Registered Agent, Mr. Gyros Café and Grill, LLC

11/30/09
Date



Jenna Merten
Assistant City Attorney
City of West Allis

11/30/09
Date



DEPARTMENT OF BUILDING INSPECTIONS & ZONING

414/302-8400
414/302-8402 (Fax)

City Hall
7525 West Greenfield Avenue
West Allis, Wisconsin 53214

www.ci.west-allis.wi.us

August 12, 2008

NOTICE
BUSINESS OCCUPANCY PERMIT
BUILDING CODE CORRECTIONS

Mr. Gyros
Attn. James Wood
10535 West Greenfield Avenue
West Allis, WI 53214

RE: Occupancy Permit Application for the Property Located at 10535 West Greenfield Avenue

To The Above:

On August 12, 2008, a building inspection was made of the above referenced premises as requested by a Business Occupancy Permit Application. The following deficiencies (with correction information where applicable) are violations of the City of West Allis Revised Municipal Code (RMC) and/or the State of Wisconsin Department of Commerce (COMM) Commercial Building Code and shall be corrected and reinspected for compliance before occupancy of the premises.

1. The south exterior exit way between the building and the fence is required to be maintained free of stored materials, tall weeds and other obstructions.
2. The rear exit hallway is required to be maintained free of obstructions for a width of at least (36) inches for the entire length of the hallway.
3. Common use circulation aisles throughout the kitchen are required to be maintained free of obstructions for a width of at least (28) inches.
4. Site landscaping is required to be maintained free of weeds. Dead shrubbery is required to be replaced in accordance with the approved site plan.

OCCUPANCY NOTES: 1. Listed deficiencies shall be corrected and reinspected by the inspector prior to occupancy of the premises. 2. Corrections listed in this NOTICE pertain only to the building inspection portion of the occupancy inspection. 3. Approvals for occupancy are required from the zoning, building, electrical, plumbing, fire, and health inspectors.

The property owner may assume responsibility for the above listed corrections, but this is a matter to be resolved between the tenant and the owner. Ultimately, corrections of code violations are the responsibility of the owner who is hereby informed through this NOTICE.

If you have any questions regarding this NOTICE, please feel free to contact me.

Sincerely,

Robert Woodard

Robert Woodard, Building Inspector
City of West Allis
phone: (414)302-8408
email: rwoodard@ci.west-allis.wi.us

Robert Woodard

Recall: 30 days
cc: Business Occupancy File
Inspector File
Property Owner: Akash Real Estate

RW/dl

Exhibit B

WEST ALLIS
STATE OF WISCONSIN : MUNICIPAL COURT : MILWAUKEE COUNTY

CITY OF WEST ALLIS,

Plaintiff,

v.

COMPLAINT

MR. GYROS CAFÉ & GRILL LLC
C/o Registered Agent, James P. Wood,

&

AKASH REAL ESTATE, INC.
C/o Registered Agent, David A. Hagen,

Defendants.

The plaintiff, City of West Allis, hereby alleges that on or about August 12, 2008, and everyday continuously thereafter, at 10535 West Greenfield Ave., in the City of West Allis, County of Milwaukee, State of Wisconsin, the above-named defendants, owner and occupant of said property, did violate section 13.33(2)(a) of the West Allis Revised Municipal Code, in that the defendants have failed to obtain the necessary occupancy permit for the premises as set forth in Exhibit A attached hereto.

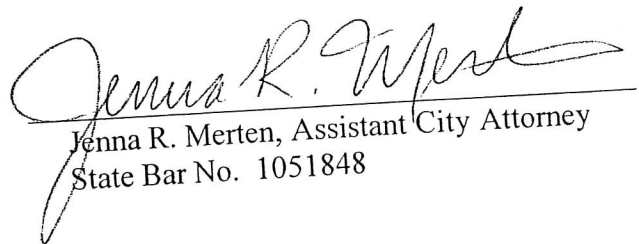
The penalty for violation of section 13.33 of the West Allis Revised Municipal Code is a forfeiture of not less than ten dollars (\$10.00), nor more than five hundred dollars (\$500.00), together with the costs of prosecution and, in default of payment thereof, by imprisonment in the Milwaukee County House of Correction until such forfeiture and costs are paid, but not more than the number of days set forth in section 800.095(4)(b)(1) of the Wisconsin Statutes. Each and every day during which any violation continues constitutes a separate offense.

This complaint is based upon personal knowledge of the undersigned complainant and upon his review of the records maintained by the City of West Allis.

Dated at West Allis, Wisconsin, this 11th day of December, 2008.



Robert Woodard, Complainant,
Building Inspector
Department of Building Inspections
& Zoning
(414) 302-8400



Jenna R. Merten, Assistant City Attorney
State Bar No. 1051848

P. O. Address
7525 West Greenfield Avenue
West Allis, Wisconsin 53214
(414) 302-8450

STATE OF WISCONSIN)
MUNICIPAL COURT)SS
CITY OF WEST ALLIS)

TRANSCRIPT OF JUDGMENT DOCKET

Name of Judgment Debtor(s):

Name of Judgment Creditor:

Mr. Gyros Café & Grill LLC
C/O Registered Agent, James P. Wood
10535 W. Greenfield Avenue
West Allis, WI 53214

City of West Allis
7525 W. Greenfield Avenue
West Allis, WI 53214

Municipal Court Case Amount \$5,000.00
Five thousand and 00/100 dollars

Date of entry of judgment: March 18, 2009

Attorney for judgment creditor: Scott Post, City Attorney

STATE OF WISCONSIN)
MUNICIPAL COURT)SS
CITY OF WEST ALLIS)

I, the undersigned Clerk of Court of said court, do hereby certify that I have compared the foregoing with the original docket, now of record in my office, and that it is a correct transcript therefrom and of the whole thereof in a certain action entitled.

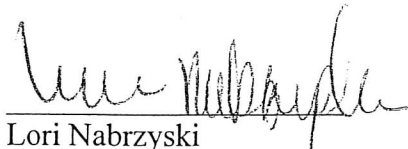
City of West Allis,
Plaintiff,

vs.

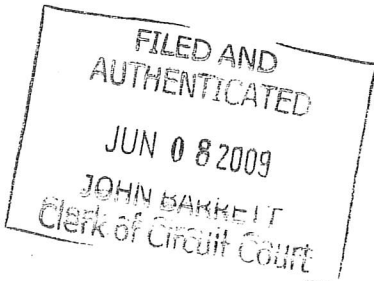
Case No. 316267

Mr. Gyros Café & Grill LLC.,
Defendant.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said court, at West Allis, on June 4, 2009.



Lori Nabrzyski
Clerk of Court
City of West Allis Municipal Court



Hon John Barrett Br. 47

Exhibit - D



CITY CLERK/TREASURER'S OFFICE

414/302-8200 or 414/302-8207 (Fax)

www.ci.west-allis.wi.us

Paul M. Ziehler

City Admin. Officer, Clerk/Treasurer

Monica Schultz

Assistant City Clerk

Rosemary West

Treasurer's Office Supervisor

April 20, 2010

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Mr. Gyros
10535 W. Greenfield Ave.
West Allis, WI 53214

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Sincerely,

Monica Schultz
Assistant City Clerk

/amn