

STATE OF WISCONSIN**CIRCUIT COURT****MILWAUKEE**

Landmark Harmony Housing LLC vs. City of West Allis

**Electronic Filing
Notice**

Case No. 2024CV006049

Class Code: Money Judgment

FILED**07-26-2024****Anna Maria Hodges****Clerk of Circuit Court****2024CV006049****Honorable J. D. Watts-15****Branch 15**

7-26-24

2:05 PM

Carpenter

CITY OF WEST ALLIS
7525 WEST GREENFIELD AVENUE
WEST ALLIS WI 53214

Case number 2024CV006049 was electronically filed with/converted by the Milwaukee County Circuit Court office. The electronic filing system is designed to allow for fast, reliable exchange of documents in court cases.

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If you are not represented by an attorney and would like to register an electronic party, you will need to enter the following code on the eFiling website while opting in as an electronic party.

Pro Se opt-in code: c905e4

Unless you register as an electronic party, you will be served with traditional paper documents by other parties and by the court. You must file and serve traditional paper documents.

Registration is available to attorneys, self-represented individuals, and filing agents who are authorized under Wis. Stat. 799.06(2). A user must register as an individual, not as a law firm, agency, corporation, or other group. Non-attorney individuals representing the interests of a business, such as garnishees, must file by traditional means or through an attorney or filing agent. More information about who may participate in electronic filing is found on the court website.

If you have questions regarding this notice, please contact the Clerk of Circuit Court at 414-278-4140.

Milwaukee County Circuit Court
Date: July 26, 2024

CITY OF WEST ALLIS
26 JUL '24 PM2:12

FILED
07-26-2024
Anna Maria Hodges
Clerk of Circuit Court
2024CV006049
Honorable J. D. Watts-15
Branch 15

STATE OF WISCONSIN

CIRCUIT COURT

MILWAUKEE COUNTY

LANDMARK HARMONY HOUSING LLC

152 WEST 57TH STREET, 60TH FLOOR
NEW YORK, NEW YORK 10019,

PLAINTIFF,

v.

MONEY JUDGMENT: 30301
(over \$10,000)

CITY OF WEST ALLIS,

7525 WEST 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 an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is 901 North 9th Street, Milwaukee, Wisconsin 53233, and to Robert Romashko of the law firm of Husch Blackwell LLP, plaintiff's attorney, whose address is 1801 Pennsylvania Avenue, NW, Suite 1000, Washington, DC 20006. 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 Washington, DC this 26th day of July, 2024.

HUSCH BLACKWELL LLP
Attorneys for Plaintiff

By: 

ROBERT ROMASHKO, SBN 1106485

P.O. ADDRESS:

1801 Pennsylvania Avenue, NW, Suite 1000

Washington, DC 20006

Phone: 202-378-2310

Robert.romashko@huschblackwell.com

FILED
07-26-2024
Anna Maria Hodges
Clerk of Circuit Court
2024CV006049
Honorable J. D. Watts-15
Branch 15

STATE OF WISCONSIN

CIRCUIT COURT

MILWAUKEE COUNTY

LANDMARK HARMONY HOUSING LLC

152 WEST 57TH STREET, 60TH FLOOR
NEW YORK, NEW YORK 10019

PLAINTIFF,

v.

MONEY JUDGMENT: 30301
(over \$10,000)

CITY OF WEST ALLIS,

7525 WEST GREENFIELD AVENUE
WEST ALLIS, WISCONSIN 53214,

DEFENDANT.

COMPLAINT

Plaintiff Landmark Harmony Housing LLC (“Landmark”) by its undersigned counsel, Husch Blackwell 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. §§ 74.35 for a refund of unlawful property taxes on properties which are exempt from taxation by law and which also have been excessively assessed by the City for the year 2023, plus statutory interest, with respect to parcels of land and real property in the City.

2. Landmark is a Delaware Limited Liability Company, and is authorized to do business in Wisconsin, with its principal office at 152 West 57th Street, 60th Floor, New York, New York.

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

4. Landmark is a not-for-profit organization which is exempt from income tax under Internal Revenue Code 501(c)(3), because it is a single-member LLC, disregarded for federal tax purposes, and its regarded parent entity is the Foundation for Affordable Rental Housing Holdings, Inc., which is a tax-exempt nonprofit. Landmark is also a benevolent association as that term is defined in Wisconsin law, and no portion of its earnings inure to any private party.

5. The City is a body corporate and politic, duly organized as a municipal corporation under Wisconsin law, with its principal office located at 7525 West Greenfield Avenue, West Allis, Wisconsin 53214.

6. The subject properties ("Properties") are located at 1441 South 60th Street (Property 1) and 69 Orchard Street (Property 2) in the City. The Properties are identified on the City's records as Parcel Nos. 453-0002-001 (Property 1) and 453-0001-009 (Property 2), respectively.

JURISDICTION AND VENUE

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

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

BACKGROUND FACTS

9. The subject properties contain one building, which is used to operate a 127-unit residential building. Tenants must generally have incomes below certain thresholds and must be over the age of 62.

10. On September 16, 2022, the subject properties were appraised, as-is, at \$15,300,000. On information and belief, the value of the subject properties did not change significantly between that date and January 1, 2023. The units range in square footage from 593 square feet to 1,030 square feet, and the average unit size is 839 square feet. The building's net rentable area is 106,555 square feet, so the value is equal to \$143/square foot. On a square footage basis, the value of the largest units, per this appraisal, would be \$147,290.

11. Landmark applied for exemption under Wis. Stat. § 70.11(4) as Benevolent Low-Income Housing. Landmark is a nonprofit benevolent association as alleged above. In addition:

a. At least 75% of Landmark's units, as of January 1, 2023, were occupied by or only available for rent to persons who meet the definition of low or very-low income under the statute,

b. At least 40 percent of Landmark's units, as of January 1, 2023, were occupied or only available for rent to persons whose income did not exceed 120 percent of the very low income definition under the statute.

c. Landmark's property exempt under this subsection does not exceed 30 acres within West Allis, or 10 contiguous acres.

12. Additionally, Landmark qualifies for exemption under Wis. Stat. § 70.11(4d) as a Benevolent Retirement Home for the Aged. Landmark is a nonprofit benevolent association, as alleged above. In addition:

a. As of January 1, 2023 (and at all times thereafter) Landmark rented only to persons who were 62 or older.

b. If Landmark's most valuable units are worth \$147,290 at most (which figure assigns no value to common areas of the property) then all units of the property have a fair market value of less than \$289,271, which is 130% of the average equalized value of improved parcels of residential real estate in Milwaukee County, and so all units qualify under the fair market value test of Wis. Stat. § 70.11(4d).

13. For tax year 2023, the City assessed the Properties collectively at \$8,585,400, consisting of \$1,000,700 for land and \$7,577,800 for improvements (Property 1) and \$129,300, land value only (Property 2) thereon on the basis that the Landmark Properties were not exempt under Wis. Stat. § 70.11.

14. Landmark's use of the Properties was exempt from taxes under Wis. Stat. § 70.11. Thus, the 2023 Landmark assessments included \$8,714,700 collectively of property which qualified for exemption purposes pursuant to Wis. Stat. § 70.11.

15. For tax year 2023, property in the City was assessed at 66.41% of its fair market value and tax was imposed on property in the City at the rate of \$28.332516 per \$1,000 of assessed value.

16. Based on the City's 2023 tax rate and the 2023 assessments of the Properties, the City issued 2023 tax bills in the combined amount \$247,349.20.

17. Landmark has timely paid the taxes in full in the amount of \$247,349.20.

18. By letter dated January 29, 2024, Landmark served a refund claim to recover unlawful taxes paid as a result of the assessments. A true and accurate copy is attached hereto and incorporated therein as Exhibit A.

19. The Landmark Refund Claim was deemed automatically disallowed by the City, as a matter of law.

20. Pursuant to Wis. Stat. §74.35(3)(d), Landmark timely commences this action relating to the 2023 tax year within 90 days after the Landmark refund claim was disallowed as a matter of law.

21. Landmark has not contested the 2023 assessments of the Properties under Wis. Stat. §§ 74.33 or 806.04.

CLAIM FOR RELIEF

22. The allegations of paragraphs 1-21 are incorporated as if fully realleged herein.

23. The 2023 assessments resulted in unlawful assessments of the Landmark Properties, as defined in Wis. Stat. § 74.35.

24. Landmark is aggrieved by the imposition of general property tax based on the unlawful assessments by the City and is, therefore, entitled to a refund under Wis. Stat. § 74.35 of

the unlawful taxes paid to the City for the 2023 tax year, together with interest as provided by Wis. Stat. § 74.35(4).

25. Based on the City's tax rate of \$28.332516 per \$1,000 of assessed value, the net property tax to be imposed on the Properties for tax year 2023 will be excessive in the amount of approximately \$247,349.20.

26. Upon information and belief, the 2023 assessments of the Properties were not uniform with the assessments of other comparable properties in the City and therefore violated the Uniformity Clause of the Wisconsin Constitution.

27. Landmark is entitled to a refund of the 2023 net tax in at least the amount of \$247,349.20, or such greater amount as may be determined to be due to Landmark, plus statutory interest.

WHEREFORE, Landmark respectfully requests the Court:

- A. Declare, Find and/or Order that the 2023 Landmark assessments be unlawful;
- B. Declare, Find and/or Order that in 2023 Landmark paid more than their fair share of taxes due to the assessments of the exempt Properties in 2023;
- C. Declare, Find and/or Order that Landmark is entitled to a refund of the unlawful taxes assessed by the City pursuant to Wis. Stat. § 74.35, together with interest pursuant to Wis. Stat. § 74.35((4));

D. Enter judgment in favor of Landmark and against the City in the amount of \$247,349.20, or such greater amount as may be determined to be due to Landmark, plus statutory interest;

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

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

Dated at Washington, DC this 26th day of July, 2024.

HUSCH BLACKWELL LLP
Attorneys for Plaintiff



By: _____

ROBERT M. ROMASHKO, SBN 1106485

P.O. ADDRESS:

1801 Pennsylvania Avenue, NW, Suite 1000

Washington, DC 20006

Phone: 202-378-2310

Robert.romashko@huschblackwell.com

HUSCH BLACKWELL

Robert M. Romashko
Partner

1801 Pennsylvania Avenue, NW, Suite 1000
Washington, DC 20006
Direct: 202.378.2310
Fax: 202.378.2319
Robert.Romashko@huschblackwell.com

EXHIBIT A

FILED
07-26-2024
Anna Maria Hodges
Clerk of Circuit Court
2024CV006049
Honorable J. D. Watts-15
Branch 15

January 29, 2024

VIA PERSONAL SERVICE

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



CITY OF WEST ALLIS

Re: Refund Claim for 2023 Unlawful Tax

Landmark Harmony Housing LLC
1441 S. 68th Street, Parcel No. 453-0002-001 ("Property 1")
69 Orchard Street, Parcel No. 453-0001-009 ("Property 2")

Dear Clerk:

On behalf of Landmark Harmony Housing LLC ("Landmark"), and pursuant to Wis. Stat. § 74.35(2), we file this refund claim ("Claim") for unlawful tax against the City of West Allis (the "City") to recover that amount of the general property tax imposed on the above-referenced parcels of real property ("Properties") because the City's January 1, 2023 assessments (the "2023 Assessments") were unlawful.

In support of this claim, the Properties were exempt from taxation on January 1, 2023 under Wis. Stat. § 70.11(4a), and their assessment as taxable property was non-uniform with the exemptions granted other properties in the same classification.

The City's 2023 Assessment of Property 1 included \$8,585,400 of exempt property. Accordingly, with respect to Property 1, Landmark's Claim is in the amount of not less than \$243,185.80 plus any interest as provided by law. The City's 2023 Assessment of Property 2 included \$129,300 of exempt property. Accordingly, with respect to Property 2, Landmark's Claim is in the amount of not less than \$3,663.40, plus any interest as provided by law.

Landmark has complied with the procedures for objecting to the 2023 Assessments under Wis. Stat. § 74.35. Landmark has not contested the 2023 Assessments of the Properties under Wis. Stat. §§ 74.33 or 806.04.

Despite the unlawful assessments of the Properties, Landmark has paid the full amount of \$243,685.80 alleged to be due for Property 1 posted on January 24, 2024 prior to the filing of this Claim. (See Exhibit A, attached.) Landmark has also paid the full amount of \$3,663.40 alleged to be due for Property 2 posted on January 24, 2024 prior to the filing of this Claim. (See Exhibit B, attached.)

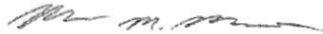
HUSCH BLACKWELL

City of West Allis Clerk
January 29, 2024
Page 2

By this letter, Landmark has stated a valid claim to recover taxes paid with respect to the unlawful taxes on the Properties for the 2023 tax year. Landmark respectfully requests that the City act on this Claim within 90 days from the date of service thereof.

Please contact the undersigned with any questions regarding this matter.

Best regards,



Robert M. Romashko

Attachments

2023 Real Estate Tax Summary

01/24/2024 12:23 PM

Page 1 Of 3

Parcel #: 4530002001
 Alt. Parcel #:

292 - CITY OF WEST ALLIS
 MILWAUKEE COUNTY, WISCONSIN

Tax Address:

LANDMARK HARMONY HOUSING, LLC
 152 W 57TH ST 60TH FLOOR
 NEW YORK NY 10019

Owner(s):

O = Current Owner, C = Current Co-Owner

O - LANDMARK HARMONY HOUSING, LLC

Districts:

SC = School, SP = Special

Type Dist # Description

SC 6300 WEST ALLIS/W MIL SCH DIST
 SP 5020 MMSD

Property Address(es):

* = Primary

* 1441 S 68 ST
 1441 S 68 ST UNIT 100
 1441 S 68 ST UNIT 102
 1441 S 68 ST UNIT 104
 1441 S 68 ST UNIT 105
 1441 S 68 ST UNIT 106

more...

Abbreviated Description:**Acres:** 3.212

(See recorded documents for a complete legal description.)

CERTIFIED SURVEY MAP NO 6230 PARCEL 1
 EXC PART FOR STR (3.209 AC) NW 1/4 SEC
 3-6-21

Parcel History:

Date	Doc #	Vol/Page	Type
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Plat: * = Primary**Tract:** (S-T-R 40% 160% GL) **Block/Condo Bldg:**

Tax Bill #:	434483	Net Mill Rate	0.028332516	Installments		
		Gross Tax	259,725.52			
		School Credit	16,479.55			
Land Value	1,007,600	Total	243,245.97	1	01/31/2024	83,183.18
Improve Value	7,577,800	First Dollar Credit	60.17	2	03/31/2024	80,251.31
Total Value	8,585,400	Lottery Credit	0.00	3	05/31/2024	80,251.31
Ratio	0.6641	0 Claims				
Fair Mrkt Value	12,927,800	Net Tax	243,185.80			
		Amt Due				
Net Tax	243,185.80	Amt Paid	243,185.80			
Special Assmnt	0.00		0.00			
Special Chrg	500.00		500.00			
Delinquent Chrg	0.00		0.00			
Private Forest	0.00		0.00			
Woodland Tax	0.00		0.00			
Managed Forest	0.00		0.00			
Prop. Tax Interest			0.00			
Spec. Tax Interest			0.00			
Prop. Tax Penalty			0.00			
Spec. Tax Penalty			0.00			
Other Charges	0.00		0.00			
TOTAL	243,685.80		243,685.80			0.00

Payment History: (Posted Payments)

Date	Receipt #	Type	Amount
01/24/2024	37325	T	243,685.80

Key: Payment Type: A-Adjustment, B-Write Off Bankrupt, D-Write Off Deeded, Q-Quit Claim, R-Redemption, T-Tax

2023 Real Estate Tax Summary

01/24/2024 12:23 PM

Page 2 Of 3

Parcel #: 4530002001
Alt. Parcel #:

292 - CITY OF WEST ALLIS
MILWAUKEE COUNTY, WISCONSIN

Property Addresses: cont.

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2023 Real Estate Tax Summary

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Page 3 Of 3

Parcel #: 4530002001
Alt. Parcel #:

292 - CITY OF WEST ALLIS
MILWAUKEE COUNTY, WISCONSIN

Property Addresses: cont.

1441 S 68 ST UNIT 317
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2023 Real Estate Tax Summary

01/24/2024 12:24 PM

Page 1 Of 1

Parcel #: 4530001009
 Alt. Parcel #:

292 - CITY OF WEST ALLIS
 MILWAUKEE COUNTY, WISCONSIN

Tax Address:

LANDMARK HARMONY HOUSING, LLC
 152 W 57TH ST 60TH FLOOR
 NEW YORK NY 10019

Owner(s):

O = Current Owner, C = Current Co-Owner

O - LANDMARK HARMONY HOUSING, LLC

Districts:

SC = School, SP = Special

Type Dist # Description

SC 6300 WEST ALLIS/W MIL SCH DIST
 SP 5020 MMSD

Property Address(es):

* = Primary

* 69 ORCHARD ST

Abbreviated Description:**Acres:** 0.471

(See recorded documents for a complete legal description.)

CERTIFIED SURVEY MAP NO 6231 PARCEL 1
 (0.4710 AC) NW 1/4 SEC 3-6-21

Parcel History:

Date	Doc #	Vol/Page	Type
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Plat: * = Primary**Tract:** (S-T-R 40% 160% GL) **Block/Condo Bldg:**

Tax Bill #:	434482	Net Mill Rate	0.028332516	Installments		
		Gross Tax	3,911.59			
		School Credit	248.19			
Land Value	129,300	Total	3,663.40	1	01/31/2024	1,245.56
Improve Value	0	First Dollar Credit	0.00	2	03/31/2024	1,208.92
Total Value	129,300	Lottery Credit	0.00	3	05/31/2024	1,208.92
Ratio	0.6641	0 Claims				
Fair Mkt Value	194,700	Net Tax	3,663.40			

	Amt Due	Amt Paid	Balance
Net Tax	3,663.40	3,663.40	0.00
Special Assmnt	0.00	0.00	0.00
Special Chrg	0.00	0.00	0.00
Delinquent Chrg	0.00	0.00	0.00
Private Forest	0.00	0.00	0.00
Woodland Tax	0.00	0.00	0.00
Managed Forest	0.00	0.00	0.00
Prop. Tax Interest		0.00	0.00
Spec. Tax Interest		0.00	0.00
Prop. Tax Penalty		0.00	0.00
Spec. Tax Penalty		0.00	0.00
Other Charges	0.00	0.00	0.00
TOTAL	3,663.40	3,663.40	0.00

Payment History: (Posted Payments)

Date	Receipt #	Type	Amount
01/24/2024	37324	T	3,663.40

Key: Payment Type: A-Adjustment, B-Write Off Bankrupt, D-Write Off Deeded, Q-Quit Claim, R-Redemption, T-Tax