

ATSI LLC vs. CITY OF WEST ALLIS

Electronic Filing
NoticeCase No. 2016CV007992
Class Code: Money Judgment10/31/16
3508For Official Use Only
FILED

10-21-2016

John Barrett

Clerk of Circuit Court

2016CV007992

Honorable John J. Di

Motto-41

Branch 41

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

RECEIVED

OCT 31 2016

CITY OF WEST ALLIS
CITY CLERK

Case number 2016CV007992 was electronically filed with/converted by the Milwaukee County Clerk of Circuit Court office. The electronic filing system is designed to allow for fast, reliable exchange of documents in court cases.

Parties who register as electronic parties can file, receive and view documents online through the court electronic filing website. A document filed electronically has the same legal effect as a document filed by traditional means.

You may also register as an electronic party by following the instructions found at <http://efiling.wicourts.gov/> and may withdraw as an electronic party at any time. There is a \$20.00 fee to register as an electronic party.

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: 5d3dfe

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.

If you have questions regarding this notice, please contact the Clerk of Circuit Court at 414-278-4120.

BY THE COURT:

Electronically signed by John Barrett
Clerk of Circuit Court

10-21-2016
Date

FILED
10-21-2016
John Barrett
Clerk of Circuit Court
MILWAUKEE COUNTY
Honorable John J. Di Motto-41
Branch 41

STATE OF WISCONSIN CIRCUIT COURT MILWAUKEE COUNTY

ATSI LLC
221 River Lawn Ave.
Watertown, WI 53094,

Plaintiff,

-vs-

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

Defendant.

SUMMONS
(Greater than \$10,000)

Case No.: _____
Case Code: 30301
Money Judgment

THE STATE OF WISCONSIN to each party 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 forty-five (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 deliver to the court, whose address is:

Clerk of Circuit Court
Milwaukee County Courthouse
901 North Ninth Street
Milwaukee, WI 53233

and to plaintiff's attorney, whose address is:

STEVENS & KUSS S.C.
Attorneys at Law
1025 South Moorland Road, Suite 201
Brookfield, WI 53005-6956

You may have an attorney help or represent you.

If you do not provide a proper answer within forty-five (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 21st day of October, 2016.

STEVENS & KUSS S.C.
Attorneys for Plaintiffs

Electronically signed by Daniel W. Stevens
Daniel W. Stevens
State Bar No. 1004632

P.O. ADDRESS:

1025 South Moorland Road
Suite 201
Brookfield, WI 53005
(262) 251-5700
(262) 251-4894 *Facsimile*
danstevens@stevensandkuss.com

STATE OF WISCONSIN CIRCUIT COURT MILWAUKEE COUNTY

ATSI LLC
221 River Lawn Ave.
Watertown, WI 53094,

Plaintiff,

-vs-

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

Defendant.

COMPLAINT
(Greater than \$10,000)

Case No.: _____
Case Code: 30301
Money Judgment

NOW COMES the above named plaintiff, by their attorney, DANIEL W. STEVENS, of STEVENS & KUSS S.C., and as and for a cause of action against the above named defendant, alleges and shows to the Court as follows:

1. That, ATSI LLC, is a limited liability company located in the state of Wisconsin whose primary business is computer repair and maintenance.
2. That the CITY OF WEST ALLIS, upon information and belief, a municipal corporation organized under the laws of Wisconsin.
3. That the plaintiff, ATSI LLC, entered into a contract with the defendant, CITY OF WEST ALLIS, for the purchase of real estate located at 933 S. 73rd Street, West Allis, WI 53214.

FACTS

4. Jennifer Hupke (hereinafter Hupke) a representative of ATSI LLC (hereinafter ATSI) contacted the assessor's office for the City of West Allis prior to purchase of property located at 933 S. 73rd Street in the City of West Allis.

5. The purpose of contacting the assessor's office was to determine whether the property was a three bedroom home with one and a half baths.

6. Hupke was informed by the assessor's office that it was and provided written documentation to that effect.

7. Under Wis. Stats. 74.05 and 74.09 the City of West Allis has an obligation to correct any errors in the description of real property.

8. Relying upon the information provided by the City of West Allis, City Assessors Office ATSI purchased the subject property.

9. After purchasing the property, Robert Woodward the building inspector on March 23, 2016 sent a notice with regard to the above property indicating that it was not a valid conforming three bedroom unit and that substantial repairs or modifications needed to be completed.

10. That Hupke contacted numerous city officials over a period of time attempting to resolve the problem.

11. That Hupke was informed that approximately one third of the City of West Allis's assessment records do not match or conform with the records of the building inspectors office.

12. Hupke was informed that the City of West Allis believed that it would be too expensive and time consuming for the city to reconcile the records as required by Wis. Stats. 74.05 and that is why this has never been done.

13. That the city of West Allis has in this instance and continues to violate Wis. Stats. 74.05 and 74.09 requiring the city to correct and maintain accurate records.

FIRST CAUSE OF ACTION: MISREPRESENTATION

14. Re-alleges and incorporates herein by reference paragraphs 1 through 13 above of the plaintiff's Complaint.

15. That the agent of the City of West Allis misrepresented to the claimant the status of the property in violation of its statutory duty to maintain and provide correct information regarding the description of the real property and maintaining the required information on the tax rolls.

16. As a direct and proximate result of this negligent misrepresentation which also constitutes strict liability misrepresentation the claimant has sustained monetary damages in that the property it has purchased is worth approximately \$50,000 less than it believed it to be at the time of purchase.

SECOND CAUSE OF ACTION: NEGLIGENCE

17. Re-alleges and incorporates herein by reference paragraphs 1 through 16 above of the plaintiff's Complaint.

18. That the actions of the City of West Allis in failing to coordinate and correct the information between the building inspector's office and the tax assessor's offices was negligent and their errors are solely due to the City's refusal to spend the time and money to correct the situation.

19. As a direct and proximate result of the negligence the claimant has sustained damages of \$50,000 as previously alleged.

THIRD CAUSE OF ACTION: EQUITABLE RELIEF

20. Re-alleges and incorporates herein by reference paragraphs 1 through 19 above of the plaintiff's Complaint.

21. That the claimant is entitled to equitable relief relieving the plaintiff of any obligations to conform its property to specifications other than those to it by the Assessor & office and that the city has waived and/or is estopped from denying the fact that the property in this case is a valid conforming three bedroom home based upon the representations made to the claimant.

FOURTH CAUSE OF ACTION: DECLARATORY RELIEF

22. Re-alleges and incorporates herein by reference paragraphs 1 through 21 above of the plaintiff's Complaint.

23. That the claimant has had the property inspected by an engineer.

24. That the engineer has informed the claimant that at the time of construction the property was originally constructed as a three bedroom unit.

25. That this opinion is based upon the design and original materials made.

26. That it can be presumed that a proper permit was taken out and that it conformed to the codes of West Allis at the time of construction.

27. That because it conformed to the proper codes of construction at the time of construction it is grandfathered in and that subsequent changes in building codes cannot negate the fact that it was and is a valid conforming three bedroom unit.

WHEREFORE the plaintiff requests relief in monetary damages in the amount of \$50,000 and or other equitable relief as alleged in this Complaint.

Dated this 21st day of October, 2016.

STEVENS & KUSS S.C.

Attorneys for Plaintiffs

Electronically signed by Daniel W. Stevens

Daniel W. Stevens

State Bar No. 1004632

P.O. ADDRESS:

1025 S. Moorland Road, Suite 201

Brookfield, WI 53005

262-251-5700

262-251-4894 Fax

danstevens@stevensandkuss.com