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# City of West Allis Matter Summary

7525 W. Greenfield Ave.  
West Allis, WI 53214

File Number	Title	Status
2011-0089	Claim	Claim Report
	Marek K. Matuszczak communication relative to his request of refund on his 2010 taxes.	
	Introduced: 2/15/2011	Controlling Body: Administration & Finance Committee

### COMMITTEE RECOMMENDATION

*pd* + **PLACE ON FILE**

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<u>APR 05 2011</u>			Barczak				
			Czaplewski				
			Kopplin	✓			
			Lajsic	✓			
		X	Narlock	✓			
		X	Reinke	✓			
			Roadt				
			Sengstock				
			Vitale	✓			
		Weigel					
		TOTAL		5	-		-

### SIGNATURE OF COMMITTEE MEMBER

*Kurt Kopplin*  
 Chair \_\_\_\_\_ Vice-Chair \_\_\_\_\_ Member \_\_\_\_\_

### COMMON COUNCIL ACTION

**PLACE ON FILE**

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<u>APR 05 2011</u>			Barczak	✓			
			Czaplewski	✓			
		✓	Kopplin	✓			
			Lajsic	✓			
			Narlock	✓			
			Reinke	✓			
			Roadt	✓			
			Sengstock	✓			
			Vitale	✓			
		Weigel	✓				
		TOTAL		10	-		-



OFFICE OF THE CITY ATTORNEY

March 14, 2011

Scott E. Post  
City Attorney

Sheryl L. Kuhary  
Jeffrey J. Warchol  
Jenna R. Merten  
Assistant City Attorneys

Common Council  
City of West Allis

RE: City Attorney's Report of Claim

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. Our Opinion regarding liability is as follows:

**It is the recommendation of this office that the following claim be paid and placed on file:**

**Marek K. Matuszczak – Amount \$ 738.98**

This is a claim for a return of a portion of real estate taxes paid by the claimant to the City for tax year 2010. The claimant filed a claim against the City for said refund on January 31<sup>st</sup>, 2011.

This claim was investigated by the City Assessor, Charles Ruud, who determined that an "Assessment in Error" occurred for the claimant's property on the 2010 Assessment Roll due to two distinct palpable errors as defined in Wisconsin Statutes Section 74.33(1)(a). Said palpable errors had to do with a second floor attic space that was unfinished, as well as, a recent sale of the property which was given inappropriate weight during the valuation adjustment process on the property. Thus, the City Assessor recommended a return of the overpayment made by the claimant in the total amount of \$738.98.

Based upon the above, the City Attorney's Office paid this claim in the amount of \$738.98 and obtained a Release of All Claims signed by the claimant. Therefore, this claim should be placed on file.

Respectfully submitted,

  
Jeffrey J. Warchol  
Assistant City Attorney

JJW:da

## RELEASE OF ALL CLAIMS

FOR AND IN CONSIDERATION of the payment to MAREK K. MATUSZCZAK at this time of the sum of Seven Hundred Thirty-eight and 98/100 dollars (\$738.98), the receipt of which is hereby acknowledged, Marek K. Matuszczak does hereby release, acquit, and forever discharge the City of West Allis, Wisconsin, a Municipal Corporation, its Departments, Commissions, Officials, Agents and Employees, his, her, its or their successors and assigns and all other persons, firms or corporations who are or might be liable from any and all claims, demands, damages, costs, actions and causes of action of whatever kind or nature which Marek K. Matuszczak may now have or may hereafter have, on account of, or in any way growing out of an overpayment of Property Taxes to the City of West Allis, Wisconsin, for the tax year 2010. Marek K. Matuszczak hereby declare and represent that recovery in this matter is uncertain and indefinite and in making this Release and Agreement it is understood and agreed that Marek K. Matuszczak rely wholly upon its judgment, belief, and knowledge of the nature, extent and duration of said claims, and that Marek K. Matuszczak has not been influenced to any extent whatever in making this Release by any representations or statements regarding said claims, or regarding any other matters, made by the persons, firms or corporations who are hereby released, or by any person or persons representing him or them.

It is further understood and agreed that this settlement is the compromise of doubtful and disputed claims and that the payment of said amount is not to be construed as an admission of liability upon the part of said persons, firms, or corporations released; liability being by it, him or them expressly denied.

It is further understood and agreed that this Release and payment pursuant thereto is not be construed as a waiver by or estoppel of any party released to prosecute a claim or action for any damages sustained.

This Release contains the ENTIRE AGREEMENT between the parties hereto, and the terms of this Release are contractual and not a mere recital.

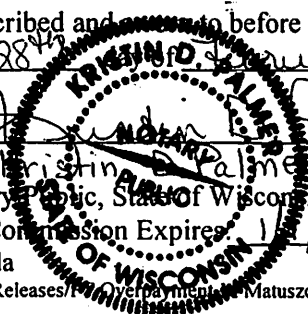
I HAVE READ THE FOREGOING RELEASE AND FULLY UNDERSTAND IT. I ACKNOWLEDGE HAVING THE OPPORTUNITY TO NEGOTIATE THE TERMS OF THIS RELEASE WITH THE CITY ATTORNEY AND SPECIFICALLY WAIVES THE OPPORTUNITY TO DO SO.

Signed and sealed this 23<sup>rd</sup> day of February, 2011.



Marek K. Matuszczak

Subscribed and sworn to before me  
this 28<sup>th</sup> day of January, 2011.

  
Kristin A. Palmer  
Notary Public, State of Wisconsin  
My Commission Expires: 1/1/2012  
JJW:da  
L:\Jeff\Releases\2011\20110228\Payment to Matuszczak



CITY CLERK/TREASURER'S OFFICE  
414/302-8200 or 414/302-8207 (Fax)  
[www.ci.west-allis.wi.us](http://www.ci.west-allis.wi.us)  
**Paul M. Ziebler**  
*City Admin. Officer, Clerk/Treasurer*  
**Monica Schultz**  
*Assistant City Clerk*  
**Rosemary West**  
*Treasurer's Office Supervisor*

February 1, 2011

Mr. Marek K. Matuszczak  
1624 S. 94 Place  
West Allis, WI 53214

Dear Mr. Matuszczak:

Please be advised that this office, on January 31, 2011, received your request of refund on your 2010 taxes. This matter will be investigated by an authorized representative of the City. Common Council action regarding your communication will not be taken until the investigation is completed and a subsequent recommendation from the City Attorney's Office is reported to the Common Council.

Any questions you may have regarding this matter should be directed to the City Attorney's Office at 414-302-8450.

Sincerely,

Monica Schultz  
Assistant City Clerk

/jl

cc: City Attorney

Atten: Common Council

Mr. Marek Matuszczak am requesting a refund on my taxes<sup>2010</sup> because of a clerical error. I believe it was unlawful tax for unliveable space which was writtin as liveable. It is under Sec 74.35 Statute.

1624 S 94<sup>th</sup> PL  
West Allis, WI 53214

 1-31-11

**RECEIVED**

JAN 31 2011

CITY OF WEST ALLIS  
CLERK/TREASURER

# MEMORANDUM

**TO:** City of West Allis Common Council  
**FROM:** Charles F. Ruud *CFR*  
**DATE:** February 1, 2011  
**SUBJECT:** Assessment in Error on the 2010 assessment roll.

Residential Property Key No. 450-0380-000  
Tax ID: 000011392  
Owner's name: Marek K. Matuszczak  
Property Address: 1624 S 94 Pl.

2010 Assessed Value:	\$161,000	2010 Net Taxes Paid:	\$4,135.14
2010 Corrected Value:	\$132,700	2010 Corrected Net Taxes:	\$3,396.16
Net Decrease:	\$-28,300	Net Decrease:	\$ -738.98

**Reason for change:**

The Assessor's office recommends that the Common Council allow the claim for Unlawful Taxes filed by Marek K. Matuszczak on 1-31-11 under 74.35 of the Wis Statutes. Upon review, an "Assessment In Error" was made on the 2010 Assessment Roll due to two distinct Palpable Error's as defined in Chapter 74.33(1)a.

The errors were made during the property record review process by the residential appraiser.

To begin, the home's second floor attic space was observed to be in an unfinished condition upon actual view, but the corresponding correction to the electronic property record did not take place. This clerical omission resulted in an inflated valuation for the improvements based on a larger living area than actually exists.

In addition, an error was made during the property sale analysis process that occurs during a citywide revaluation. A recent sale of the subject property was analyzed by the residential appraiser and was not considered to represent an arm's-length, open-market transaction, and was therefore disallowed for consideration in the Market Analysis process by law. This conclusion was reported to the WI Department of Revenue and was recorded in certain property assessment records. However, the electronic property record of the sale was not updated to reflect that the sale was considered "invalid-for-market-analysis". As a result, the sale was given inappropriate weight during the Valuation Adjustment Process on the property. This clerical omission resulted in an incorrect assessment for the subject property unduly influenced by a non-market sale price.



OFFICE OF THE CITY ATTORNEY

Scott E. Post  
City Attorney

Sheryl L. Kuhary  
Jeffrey J. Warchol  
Jenna R. Merten  
Assistant City Attorneys

March 23, 2011

Common Council  
City of West Allis

RE: City Attorney's Report of Claims/Lawsuits

Dear Council Members:

The enclosed claims/lawsuits have been referred to this office in accordance with Section 3.05(8) of the Revised Municipal Code. This office has examined the facts of each claim/lawsuit and the applicable law. Our Opinion regarding liability is attached to each claim/lawsuit.

**The following claims/lawsuits (foreclosures) have been placed on file:**

*Citizens Bank of Mukwonago v. Anthony M. Brugger, et al.* (Case #09-CV-019683)

*Chase Manhattan Mortgage Corp. v. CWA Dept. of Dev., Housing Div., et al.*  
Thomas and Kimberly Dusick (Case #01-CV-009215)

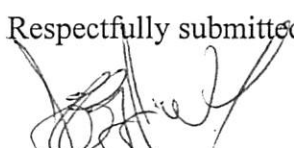
*Countrywide Home Loans Servicing LP v. Nancy Karolewicz, et al.* (Case #09-CV-004108)

Elaine L. Drellos by Attorney Dawn L. Drellos (2 Claims) – Amount \$50,000.00

**The following claims/lawsuits have been paid and placed on file:**

Marek K. Matuszczak (\$738.98)

Respectfully submitted,



Jeffrey J. Warchol  
Assistant City Attorney

JJW:da  
Enclosures  
cc: Thomas E. Mann, CVMIC