



City Attorney's Office

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Common Council
City of West Allis

RE: City Attorney's Report of Claim – **Lucky Petro, Inc.**

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: Pursuant to state law, the City of West Allis assesses certain businesses with a personal property tax. The method of assessment is self-reporting; each December, the City sends a personal property tax return form to the applicable taxpayers to list the value of certain assets. State law requires the return form to be submitted to the City by March 1 for tax assessment on those assets. If a taxpayer fails to file the return form with the City, the assessor is entitled to assess the property with the best information available to him, known as a "doomage" assessment.

In 2017, Lucky Petro, Inc. (hereinafter "Lucky Petro") operated a business at 8323 West Becher Street in the City of West Allis. During that same year, Lucky Petro failed to file its personal property tax return and failed to challenge its assessment at Board of Review. On February 1, 2018, Lucky Petro filed a claim with the City and alleged that the 2017 assessment was excessive.

Claim: Lucky Petro is claiming that its 2017 assessments was excessive and is requesting a refund of \$2,697.15.

Analysis: The claim should be denied. Per Wis. Stat. Sec. 74.37(2)(b)5, a claimant may not file a claim for an excessive assessment unless the claim was filed by January 31 of the year in which the tax based upon the contested assessment is payable. Similarly, per Wis. Stat. Sec. 74.37(2)(a), a claimant may not file a claim for excessive assessment without going through the Board of Review process first. Lucky Petro never filed an objection to its personal property tax assessment with the Board of Review at any time during 2017 and failed to file its claim by January 31, 2018.

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

Respectfully submitted,



Jenna Merten
Deputy City Attorney