

STATE OF WISCONSIN

CIRCUIT COURT

MILWAUKEE

Aurora Health Care, Inc. vs. City of Wauwatosa

**Electronic Filing
Notice**

Case No. 2023CV006038

Class Code: Money Judgment

FILED

08-14-2023

Anna Maria Hodges

Clerk of Circuit Court

2023CV006038

Honorable Gwen

Connolly-44

Branch 44

CITY OF WAUWATOSA
7725 W. NORTH AVENUE
MILWAUKEE WI 53213

Received by

AUG 18 2023

City Clerk's Office

Case number 2023CV006038 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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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: August 15, 2023Sm
8/15/23

FILED
08-14-2023
Anna Maria Hodges
Clerk of Circuit Court
2023CV006038
Honorable Gwen
Connolly-44
Branch 44

STATE OF WISCONSIN

CIRCUIT COURT

MILWAUKEE COUNTY

AURORA HEALTH CARE, INC.,
750 W. VIRGINIA STREET
MILWAUKEE, WI 53204,

PLAINTIFF,

v.

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

CITY OF WAUWATOSA,
7725 W. NORTH AVENUE
WAUWATOSA, WI 53213,

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 Milwaukee County Courthouse, 901 N. 9th Street, Milwaukee, Wisconsin 53233, and to attorneys of record at the law firm of von Briesen & Roper, s.c., plaintiff's attorneys, whose address is 411 East Wisconsin Avenue, Suite 1000, Milwaukee, Wisconsin 53202. 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 Milwaukee, Wisconsin this 14th day of August, 2023.

VON BRIESEN & ROPER, S.C.
Attorneys for Plaintiff

By: Electronically signed by Alan Marcuvitz
Alan Marcuvitz, SBN 1007942
Barry R. White, SBN 1020117
Craig M. Salzer, SBN 1026264

P.O. ADDRESS:

411 E. Wisconsin Avenue, Suite 1000
Milwaukee, Wisconsin 53202

Phone: 414-270-2516 – barry.white@vonbriesen.com

Phone: 414-287-1472 – craig.salzer@vonbriesen.com

Phone: 414-287-1401 – alan.marcuvitz@vonbriesen.com

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STATE OF WISCONSIN

CIRCUIT COURT

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PLAINTIFF,

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MONEY JUDGMENT: 30301
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CITY OF WAUWATOSA,
7725 W. NORTH AVENUE
WAUWATOSA, WI 53213,

DEFENDANT.

COMPLAINT

Plaintiff, Aurora Health Care, Inc. ("Aurora"), by their undersigned counsel, von Briesen & Roper, s.c. for its Complaint against Defendant, City of Wauwatosa (the "City"), alleges as follows:

Nature of Action and Parties

1. This action is brought under Wis. Stat. §§ 70.47(8m) and 74.37(3)(d), against the City for a correction of the assessor's 2023 assessment and for a refund of excessive real estate taxes imposed on Aurora by the City for tax year 2023, plus statutory interest, with respect to the following parcels of real property in the City:

- a. Property located at 3289 North Mayfair Road within the City and identified in the City records as Tax Parcel No. 296-9999-002 (hereinafter "Property

1”).

- b. Property located at 1055 North Mayfair Road within the City and identified in the City records as Tax Parcel No. 378-0003-002 (hereinafter “Property 2”).

2. Aurora is the owner and/or tenant of Property 1 and Property 2 and is responsible for the payment of real estate taxes and the prosecution of property tax disputes involving Property 1 and Property 2 and is authorized to bring this action.

3. The City is a body corporate and politic, duly organized as a municipal corporation under Wisconsin law, with its principal office located at 7725 W North Avenue, in the City.

Jurisdiction and Venue

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

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

Background Facts

6. For 2022, property in the City was assessed at 84.38% of its fair market value and tax was imposed on property in the City at the rate of \$21.792240 per \$1,000 of assessed value. The 2023 mill rate is not yet known.

7. For 2023, the City’s assessor set the assessments of Property 1 and Property 2 at \$7,787,100 and \$20,113,100, respectively.

8. Aurora appealed the 2023 assessments of Property 1 and Property 2 by filing timely objections with the Board of Review pursuant to Wis. Stat. § 70.47 and otherwise complying with all of the requirements of Wis. Stat. § 70.47, except § 70.47(13).

9. Aurora filed a Request for Waiver of a Board of Review Hearing. The Board of Review waived the hearing for Property 1 and Property 2 of Aurora's objections pursuant to Wis. Stat. § 70.47(8m). Such waiver allows Aurora to appeal such disallowance to the circuit court through this action pursuant to Wis. Stat. § 70.47(8m) and Wis. Stat. § 74.37(3)(d). Attached as **Exhibit A** and **Exhibit B** is a true and correct copy of said Waiver for Property 1 and Property 2, respectively.

10. Based on the 2022 tax rate and the 2023 assessments, the City will be imposing estimated net taxes on Property 1 and Property 2 in the amounts of \$169,698.35 and \$438,309.50, respectively.

Claim for Relief

11. The allegations of paragraphs 1-10 are incorporated as if fully realleged herein.

12. The correct assessed values of Property 1 and Property 2, as of January 1, 2023, were no higher than \$7,120,000 and \$12,750,000, respectively.

13. Based upon the 2022 mill rate, the correct estimated amount of property taxes on Property 1 and Property 2 for tax year 2023 should be no higher than \$155,160.75 and \$277,851.06, respectively.

14. The 2023 assessments for Property 1 and Property 2 are excessive in at least the amount of \$667,100 and \$7,363,100, respectively.

15. Accordingly, the taxes to be imposed on Property 1 and Property 2, for 2023, are excessive in the estimated amount of \$14,537.60 and \$160,458.44, respectively.

16. Aurora is entitled to a correction of the assessments of Property 1 and Property 2, for 2023, to no greater than \$7,120,000 and \$12,750,000, respectively.

17. In addition to being in excess of assessed value, the 2023 assessments of Property 1 and Property 2 violate Article VIII, Section 1 (i.e., the Uniformity Clause) of the Wisconsin Constitution.

18. Aurora is entitled to a refund of the 2023 taxes for Property 1 and Property 2 in the estimated amounts of \$14,537.60 and \$160,458.44, respectively, or such other amounts as may be determined to be due to Aurora, plus statutory interest.

WHEREFORE, Aurora prays:

A. For a determination and declaration that the assessment of Property 1 should be no greater than \$7,120,000;

B. For a determination and declaration that the assessment of Property 2 should be no greater than \$12,750,000;

C. For a declaration that the 2023 assessments violate the Uniformity Clause of the Wisconsin Constitution;

D. For judgment in favor of Aurora and against the City in the amount of \$14,537.60, for Property 1, or such other amount as may be determined to be due to Aurora, plus statutory interest;

E. For judgment in favor of Aurora and against the City in the amount of \$160,458.44, for Property 2, or such other amount as may be determined to be due to Aurora, plus statutory interest;

F. An award of all litigation costs incurred by Aurora in this action, including the reasonable fees of its attorneys; and

G. Such other and further relief as may be appropriate.

Dated at Milwaukee, Wisconsin this 14th day of August, 2023.

VON BRIESEN & ROPER, S.C.

Attorneys for Plaintiff

By: Electronically signed by Alan Marcuvitz

Alan Marcuvitz, SBN 1007942

Barry R. White, SBN 1020117

Craig M. Salzer, SBN 1026264

P.O. ADDRESS:

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RECEIVED

May 05, 2023 8:43 am, Jun 05, 2023

Request for Waiver of Board of Review (BOR) Hearing

Section 70.47 (8m), Wis. Stats., states, "The board may, at the request of the taxpayer or assessor, or at its own discretion, waive the hearing of an objection under sub. (8) or, in a 1st class city, under sub. (16) and allow the taxpayer to have the taxpayer's assessment reviewed under sub. (13). For purposes of this subsection, the board shall submit the notice of decision under sub. (12) using the amount of the taxpayer's assessment as the finalized amount. For purposes of this subsection, if the board waives the hearing, the waiver disallows the taxpayer's claim on excessive assessment under sec. 74.37(3) and notwithstanding the time period under sec. 74.37(3)(d), the taxpayer has 60 days from the notice of hearing waiver in which to commence an action under sec. 74.37(3)(d)."

NOTE: The legal requirements of the Notice of Intent to Appear must be satisfied and the Objection Form must be completed and submitted as required by law prior to the Request for Waiver of Board of Review Hearing being submitted.

NOTE: Request for Waiver must be presented prior to the commencement of the hearing.

Municipality City of Wauwatosa		County Milwaukee	
Requestor's name SNH Medical Properties Trust, c/o Aurora Health Care, Inc.		Agent name (if applicable) * Atlys. Alan Marcuvitz & Craig Salzer	
Requestor's mailing address 3000 West Montana St. Milwaukee, WI 53215		Agent's mailing address 411 E Wisconsin Ave., #1000 Milwaukee, WI 53202	
Requestor's telephone number () - N/A <input type="checkbox"/> Land Line <input type="checkbox"/> Cell Phone		Agent's telephone number (414) 287 - 11401 Alan <input checked="" type="checkbox"/> Land Line <input type="checkbox"/> Cell Phone	
Requestor's email address N/A		Agent's email address alan.marcuvitz@vonbriesen.com, craig.salzer@vonbriesen.com	
Property address 3289 N Mayfair Rd.			
Legal description or parcel number 296-9999-002			
Taxpayer's assessment as established by assessor - Value as determined due to waiving of BOR hearing \$ 7,787,100			
Property owner's opinion of value \$ 7,120,000			
Basis for request Property is currently in litigation under Case No. 20-CV-4737.			
Date Notice of Intent to Appear at BOR was given 06 - 02 - 2023		Date Objection Form was completed and submitted 06 - 02 - 2023	

All parties to the hearing understand that in granting of this waiver there can be no appeal to the Department of Revenue under sec. 70.85, Wis. Stats. An action under sec. 70.47(13), Wis. Stats., must be commenced within 90 days of the receipt of the notice of the waiving of the hearing. An action under sec. 74.37(3)(d), Wis. Stats., must be commenced within 60 days of the receipt of the notice of the waiving of the hearing.

Requestor's / Agent's Signature

* If agent, attach signed Agent Authorization Form, PA-105

Decision☒ Approved☐ Denied

Reason

Board of Review Chairperson's Signature

Date

☒ Taxpayer advised

Date

Request for Waiver of Board of Review (BOR) Hearing

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NOTE: Request for Waiver must be presented prior to the commencement of the hearing.

Municipality City of Wauwatosa	County Milwaukee
Requestor's name Aurora Health Care, Inc.	Agent name (if applicable)* Altys, Alan Marcuvitz and Craig Salzer
Requestor's mailing address 1055 N Mayfair Rd. Wauwatosa, WI 53226	Agent's mailing address 411 E Wisconsin Ave., #1000 Milwaukee, WI 53202
Requestor's telephone number () - N/A <input type="checkbox"/> Land Line <input type="checkbox"/> Cell Phone	Agent's telephone number (414) 287 - 1401 Alan <input checked="" type="checkbox"/> Land Line <input type="checkbox"/> Cell Phone
Requestor's email address N/A	Agent's email address alan.marcuvitz@vonbriesen.com, craig.salzer@vonbriesen.com

Property address 1055 N Mayfair Rd.	
Legal description or parcel number 378-0003-002	
Taxpayer's assessment as established by assessor - Value as determined due to waiving of BOR hearing \$ 20,113,100	
Property owner's opinion of value \$ 12,750,000	
Bas is for request Property is currently in litigation under Case No. 20-CV-4737.	
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Requestor's Agent Signature

If agent attach signed Agent Authorization Form, PA 105

Decision

☒ Approved

☐ Denied

Reason

Board of Review Chairperson's Signature

☒ Taxpayer advised

Date