

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

Lowe's Home Centers, LLC vs. City of Wauwatosa

**Electronic Filing  
Notice**

Case No. 2023CV005279

Class Code: Money Judgment

FILED

07-18-2023

Anna Maria Hodges

Clerk of Circuit Court

2023CV005279

Honorable Kristy Yang-47

Branch 47

CITY OF WAUWATOSA  
7725 WEST NORTH AVENUE  
WAUWATOSA WI 53213

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City Clerk's Office

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

Milwaukee County Circuit Court  
Date: July 18, 2023SM  
7/20/23

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STATE OF WISCONSIN  
MILWAUKEE COUNTY

CIRCUIT COURT

**LOWE'S HOME CENTERS, LLC,**  
a foreign limited liability company  
1000 Lowes Boulevard  
 Mooresville, North Carolina 28117,

Plaintiff,

vs.

Classification: 30301 –  
Money Judgment

**CITY OF WAUWATOSA,**  
a Wisconsin municipal corporation  
7725 West North Avenue  
Wauwatosa, Wisconsin 53213,

Defendant.

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*For Official Use:*

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**SUMMONS**

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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 North 9<sup>th</sup> Street, Milwaukee, Wisconsin 53233, and to Smitha Chintamaneni, Anthony Anzelmo, and Amy Ambro of Husch Blackwell LLP, Plaintiff's attorneys, whose address is 511 North Broadway Street, Suite 1100, 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 this 18<sup>th</sup> day of July, 2023.

HUSCH BLACKWELL LLP  
Attorneys for Plaintiff  
Lowe's Home Centers, LLC

*Electronically signed*

By: /s/ Smitha Chintamaneni

Smitha Chintamaneni

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STATE OF WISCONSIN  
MILWAUKEE COUNTY

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**LOWE'S HOME CENTERS, LLC,**  
a foreign limited liability company  
1000 Lowes Boulevard  
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*For Official Use:*

Plaintiff,

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7725 West North Avenue  
Wauwatosa, Wisconsin 53213,

Defendant.

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**COMPLAINT**

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Plaintiff, Lowe's Home Centers, LLC ("Lowe's"), by and through its attorneys, Husch Blackwell LLP, states and alleges its Complaint against Defendant, City of Wauwatosa (the "City") as follows:

**INTRODUCTION**

1. This action is brought pursuant to Wis. Stat. § 74.37(3)(d), for a refund of excessive real estate property taxes imposed upon and paid by Lowe's for the 2022 and 2023 tax years, plus statutory interest, with respect to a parcel of real property in the City (the "Property"). The assessment of the property owned by Lowe's exceeded the property's fair market value in violation of Wis. Stat. § 70.32, and, therefore, the assessment was excessive.

**PARTIES**

2. Lowe's Home Centers, LLC is a North Carolina limited liability company duly licensed to conduct business in the State of Wisconsin with its principal place of business located

at 1000 Lowes Boulevard, Mooresville, North Carolina 28117. Lowe's is responsible for the payment of property taxes, as well as for the prosecution of property tax disputes involving the property.

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

4. At all relevant times, Lowe's owned the property located in the City at 12000 West Burleigh Street and identified by the City as Tax Key No. 297-9995-004 (the "Property").

### **VENUE AND JURISDICTION**

5. This Court has personal jurisdiction over the subject matter of this dispute pursuant to Article VII, Section 8 of the Wisconsin Constitution, which provides for subject matter jurisdiction over all civil matters within this state.

6. The City is subject to this Court's jurisdiction pursuant to Wis. Stat. § 801.05, including – *inter alia* – subparts (1) and (6).

7. Venue is proper in Milwaukee County pursuant to Wis. Stat. § 801.50(2)(a) and because it is the county where the claim arose and where the subject property is situated.

### **BACKGROUND FACTS**

#### **2022 Assessment**

8. For 2022, property tax was imposed on property in the City at the rate of \$21.79224 per \$1,000 of assessed value.

9. For tax year 2022, the City assessed the Property at \$14,350,600, consisting of \$7,765,100 for land and \$6,585,500 for improvements thereon (the "2022 Assessment").

10. The City's assessment of the Property is in excess of its respective fair market value.

11. Lowe's appealed the 2022 Assessment of the Property by timely filing an Objection to Real Property Assessment with the City, pursuant to Wis. Stat. § 70.47(7)(a) and otherwise complying with all of the requirements of Wis. Stat. §§ 70.47 and 74.37, except § 70.47(13).

12. Lowe's provided information in response to the Board of Review's subpoena for the 2022 Assessment on or about May 31, 2022. The Board of Review subsequently denied the objection and advised Lowe's on June 6, 2022 that Lowe's failed to provide the information subpoenaed.

13. By letter dated January 27, 2023, Lowe's timely filed a refund claim to recover excessive taxes paid as a result of the 2022 Assessment.

14. On April 27, 2023 and pursuant to Wis. Stat. § 74.37, the claim was automatically deemed disallowed as a matter of law.

15. Based on the City's assessment of the Property for 2022 in the amount of \$14,350,600, and based on the City's 2022 tax rate, the City imposed a net real property tax of \$312,672.89.

16. Pursuant to Wis. Stat. § 74.37(3)(d), Lowe's timely commences this action relating to the 2022 tax year.

### **2023 Assessment**

17. For 2022, property tax was imposed on property in the City at the rate of \$21.79224 per \$1,000 of assessed value.

18. For tax year 2023, the City assessed the Property at \$14,350,600, consisting of \$7,765,100 for land and \$6,585,500 for improvements thereon (the "2023 Assessment").

19. The City's assessment of the Property is in excess of its respective fair market value.

20. Lowe's appealed the 2023 Assessment of the Property by timely filing an Objection to Real Property Assessment with the City, pursuant to Wis. Stat. § 70.47(7)(a) and otherwise complying with all of the requirements of Wis. Stat. §§ 70.47 and 74.37, except § 70.47(13).

21. On May 30, 2023 Lowe's filed a Request for Waiver of the Board of Review Hearing. The Board of Review approved the request and waived the Board of Review hearing, then notified Lowe's on June 30, 2023 of the same, which, pursuant to Wis. Stats. § 70.47(8m), renders the initial action timely filed.

22. Based on the City's assessment of the Property for 2023 in the amount of \$14,350,600, and based on the City's 2022 tax rate, the City will impose an approximate net real property tax of \$312,672.89.

23. Pursuant to Wis. Stat. § 74.37(3)(d), Lowe's timely commences this action relating to the 2023 tax year.

#### **CLAIMS FOR RELIEF**

24. All of the foregoing paragraphs are incorporated as if fully re-alleged.

25. The 2022 Assessment is improper in that it is in excess of the Property's fair market value. Lowe's believes the Property should be assessed as of January 1, 2022 no higher than \$12,109,036.

26. As a result, the 2022 Assessment of the Property was excessive by at least \$2,241,564.

27. Based on the City's tax rate of \$21.792240 per \$1,000 of assessed value described in paragraph 8, the correct 2022 net real property tax for the Property should be no higher than \$263,824.20.

28. Upon information and belief, the 2022 Assessment of the Property was not uniform with the assessment of other properties in the City and therefore violated the Uniformity Clause of the Wisconsin Constitution.

29. The 2023 Assessment is improper in that it is in excess of the Property's fair market value. Lowe's believes the Property should be assessed as of January 1, 2023 no higher than \$12,109,036.

30. As a result, the 2023 Assessment of the Property was excessive by at least \$2,241,564.

31. And, therefore, based on the City's tax rate of \$21.792240 per \$1,000 of assessed value described in paragraph 17, the correct 2023 net real property tax for the Property should be no higher than approximately \$263,824.20.

32. Upon information and belief, the 2023 Assessment of the Property was not uniform with the assessment of other properties in the City and therefore violated the Uniformity Clause of the Wisconsin Constitution.

33. Lowe's is entitled to a 2022 assessment of the Property of no higher than \$12,109,036.

34. Lowe's is entitled to a 2023 assessment of the Property of no higher than \$12,109,036.



**WHEREFORE**, Lowe's respectfully requests that this Court:

- A. For a determination that the 2022 fair market value of the Property should be no higher than \$12,109,036;
- B. For a determination that the 2022 Assessment of the Property was excessive by at least \$2,241,564;
- C. For a determination that the 2023 fair market value of the Property should be no higher than \$12,109,036;
- D. For a determination that the 2023 Assessment of the Property was excessive by at least \$2,241,564;
- E. Award Lowe's actual and reasonable attorneys' fees and costs associated with the prosecution of this dispute; and
- F. Grant any and all other relief that the Court deems just and equitable under the circumstances.

Dated this 18<sup>th</sup> day of July, 2023.

HUSCH BLACKWELL LLP  
Attorneys for Plaintiff  
Lowe's Home Centers, LLC

*Electronically signed*

By: /s/ Smitha Chintamaneni

Smitha Chintamaneni

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