



Received by

JAN 31 2024

City Clerk's Office

Reinhart Boerner Van Deuren s.c.  
P.O. Box 2018  
Madison, WI 53701-2018

22 East Mifflin Street  
Suite 700  
Madison, WI 53703

Telephone: 608-229-2200  
Facsimile: 608-229-2100  
reinhartlaw.com

January 30, 2024

Don M. Millis  
Direct Dial: 608-229-2234  
dmillis@reinhartlaw.com

### CLAIM FOR EXCESSIVE ASSESSMENT

SERVED BY PROCESS SERVER

Steven Braatz, Clerk  
City of Wauwatosa  
7725 W. North Avenue  
Wauwatosa, WI 53213

1-31-24  
10:10 AM  
[Signature]

Dear Mr. Braatz:

Re: Tax Parcel No. 384-0009-02

Now comes Claimant, Walgreen Co., tenant of parcel 384-0009-02 (the "Property") in Wauwatosa, Wisconsin, by Claimant's attorneys Reinhart Boerner Van Deuren s.c., and files this Claim for Excessive Assessment against the City of Wauwatosa (the "City"), pursuant to Wis. Stat. § 74.37. You hereby are directed to serve any notice of disallowance on the undersigned agent of the Claimant.

1. This Claim is brought under Wis. Stat. § 74.37(3)(d), for a refund of excessive real estate taxes imposed on Claimant by the City for the year 2023, plus statutory interest, with respect to the Property.

2. Claimant is the tenant of the Property, is responsible for the payment of property taxes and the prosecution of property tax disputes involving the Property and is authorized to bring this claim in its own name.

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.

4. The Property is located at 6600 West State Street within the City and is identified in the City's records as Tax Parcel No. 384-0009-02.

5. For 2023, property tax was imposed on property in the City at the rate of \$21.404419 per \$1,000 for of the assessed value for Property.
6. For 2023, the City's assessor set the assessment of the Property at \$3,643,400.
7. Claimant appealed the 2023 assessment of the Property by filing a timely objection with the City's Board of Review pursuant to Wis. Stat. § 70.47 and otherwise complying with all of the requirements of Wis. Stat. § 70.47, except Wis. Stat. § 70.47(13).
8. Pursuant to a Settlement Agreement dated January 16, 2024, the City reduced the assessment of the Property to \$3,300,000 for 2023, (see Exhibit A).
9. The City imposed tax on the Property in the amount of \$77,924.75.
10. Claimant timely paid the property taxes imposed by the City on the Property for 2023, or the required installment thereof.
11. Based on the tax rate of \$21.404419 and the reduced assessment for 2023 of \$3,300,000, the taxes that should have been levied against the Property were \$70,635.
12. Claimant is entitled to a refund of 2023 tax in the amount of \$7,290, or such greater amount as may be determined to be due to Claimant, plus statutory interest.
13. The City shall issue a refund in the amount \$7,290 payable to Walgreen Co. and remitted to Reinhart Boerner Van Deuren s.c. the Agent for the Claimant at 22 East Mifflin Street, Suite 700, Madison, Wisconsin 53703.

Dated at Madison, Wisconsin, this 30<sup>th</sup> day of January, 2023.

Sincerely yours,



Don M. Millis  
Agent for Claimant

## SETTLEMENT AGREEMENT

This Agreement is between Walgreen Co. ("Walgreens"), a corporation organized and existing under the laws of the State of Illinois and registered and authorized to conduct business in the State of Wisconsin, and the City of Wauwatosa, Wisconsin (the "City"), a municipal corporation organized and existing under the laws of the State of Wisconsin.

1. Definitions. In this Agreement:

- (a) "Case" means the action pending in the circuit court for Milwaukee County, Wisconsin titled *Walgreen Co. v. City of Wauwatosa*, Case No. 23-CV-5489.
- (b) The "Properties" means the land and improvements identified in paragraph 4 of the Amended and Supplemental Complaint filed in the Case on October 2, 2023 as follows: Wauwatosa Avenue, Capitol Drive and State Street, as defined below.
- (c) "Wauwatosa Avenue" means to the property located at 2656 N. Wauwatosa Avenue in the City and identified as Tax Parcel No. 331-0777-01.
- (d) "Capitol Drive" means the property located at 10800 W. Capitol Drive in the City and identified as Tax Parcel No. 256-0075-07.
- (e) "State Street" means the property located at 6600 W. State Street in the City and identified as Tax Parcel No. 384-0009-02.
- (f) "Court" means the Circuit Court for Milwaukee County.
- (g) A "tax year" means a year in which an assessment is made as of January 1, with taxes based on the assessment payable in the year following the tax year.

2. Assessments. The parties agree to resolve the claims raised by Walgreens in the Case as follows:

- (a) The City agrees to pay refunds to Walgreens with respect to the assessments for the 2022 tax year of Wauwatosa Avenue and Capitol Drive based on the following assessments:

Wauwatosa Avenue: \$3,000,000

Capitol Drive: \$3,000,000

- (b) Walgreens agrees that it will timely pay the property taxes imposed by the City on the State Street property for 2023 and the City agrees to pay a refund to Walgreens with respect to the assessment for the 2023 tax year of State Street based on an assessment of \$3,300,000.
- (c) Walgreens relinquishes any claim for further relief with respect to the assessments of the Properties for the 2022 and 2023 tax years.





3. Refund of Taxes. The City shall issue a refund payable to Walgreen Co., or to another account designated by Walgreens in writing, pursuant to Wis. Stat. § 74.37, in the amount of \$17,008.83 for 2022 and \$7,483.46 for 2023 for a total of \$24,492.29 as a partial refund of property taxes previously paid or to be paid by Walgreens based on the property tax assessments of Wauwatosa Avenue, Capitol Drive and State Street for the tax years 2022 and 2023. The parties agree that no portion of the refund amounts constitutes interest.

4. 2024 Assessment. The parties agree that the 2024 assessments of Wauwatosa Avenue, Capitol Drive, and State Street will reflect an assessed value as follows:

Wauwatosa Avenue: \$3,000,000

Capitol Drive: \$3,000,000

State Street: \$3,300,000

As long as the City complies with this Section 4 with respect to the 2024 assessments, Walgreens shall not object to the 2024 assessment of the properties identified in Section 4 or file a claim for refund for any taxes paid with respect to the 2024 assessments of the properties identified in this Section 4. In the event the 2024 assessments exceed these values, then Walgreens shall have the right to file a claim for refund for any taxes paid with respect to the assessments, and the City shall grant any such claim for refund.

5. Waiver of Costs. Each party waives all claims for costs.

6. Time of Payments. The City shall pay the refund of taxes as provided in Section 3 of this Agreement with respect to the 2022 tax year within 30 days of the date this Agreement is signed by both parties. The City shall pay the refund of tax for the 2023 tax year in full, as provided in Section 3 of this Agreement, within 30 days of the last installment payment of taxes specified on the 2023 tax bill have been paid by Walgreens.

7. Stipulation for Dismissal. No later than fifteen (15) days after receipt of the refund described in Section 3 of this Agreement: (a) the parties shall enter into a stipulation, attached hereto as Exhibit A, signed by their respective attorneys, for the dismissal of the Case (including, but not limited to, all claims asserted in the Complaint in the Case) on the merits, with prejudice, and without costs to either party; and (b) file the stipulation with the Court

8. Responsibility for Fees and Expenses of Attorneys and Experts. Each party shall be solely responsible for the fees of its attorneys and experts.

9. No Representations. Each party acknowledges and agrees that no representation or promise not expressly contained in this Agreement has been made by the opposing party or any of its employees, attorneys, agents, or representatives. Each party acknowledges that it is not entering into this Agreement on the basis of any such representation or promise, express or implied.

10. Binding on Successors. This Agreement shall be binding upon and inure to the benefit of each of the parties and their respective heirs, successors, and assigns.

11. Governing Law. This Agreement shall be governed and interpreted by the laws of the State of Wisconsin.

12. Interpretation of Agreement. The parties acknowledge that this Agreement is the product of joint negotiations. If any dispute arises concerning the interpretation of this Agreement: (a) neither party shall be deemed the drafter of this Agreement for purposes of its interpretation; and (b) the parties shall attempt in good faith to resolve the dispute. The parties agree that the Court retains jurisdiction to enforce this Agreement and that a party may ask the Court to enforce this Agreement by filing a motion in the Case and serving the same on the other party.

13. Representation By Counsel; Reliance. Each party acknowledges that it has been represented throughout all negotiations leading up to this Agreement by attorneys of its choice and that its attorneys have approved this Agreement. Each party represents that in entering into this Agreement, the party has relied on its own judgment and on the advice of its attorneys, and that no statements or representations made by the other party or any of its agents, except statements or representations expressly made in this Agreement, have influenced or induced the party to sign this Agreement.

14. No Assignment or Transfer. Walgreens represents and warrants that it has not assigned or transferred to anyone and will not assign or transfer to anyone any of the claims in the Case.

15. Entire Agreement. This Agreement states and constitutes the entire agreement of the parties concerning its subject matter and supersedes all prior or contemporaneous agreements (written or oral), representations, negotiations, and discussions concerning its subject matter, including but not limited to, all agreements (written or oral), representations, negotiations, and discussions made in the course of mediation of the Case.

16. Use of this Agreement. This Agreement shall not be filed with the Court in this Case or in any other case or proceeding, except for the purpose of enforcing this Agreement. This Agreement and any part of this Agreement shall not be admissible in the lawsuit or in any future judicial or administrative proceeding and shall not be offered as evidence or presented by any Party in the Lawsuit or any future judicial or administrative proceeding, except for the purpose of enforcing this Agreement.

17. No Admissions of Liability or Concerning Assessments or Fair Market Value. This Agreement is the settlement of disputed claims. By entering into this Agreement, the City does not admit any liability to Walgreens for any of the claims asserted in the Case or Walgreens' objections to the assessments, and the payments made under this Agreement shall not be construed as an admission of any such liability. Except as explicitly provided herein, neither Party makes an admission about the assessments or the fair market value of the Properties as of January 1, 2022, January 1, 2023 and January 1, 2024 or any other date nor any other admission concerning the assessment of Walgreens' property. In addition, none of the agreed upon values or assessments as of January 1, 2022, January 1, 2023 and January 1, 2024 shall be admissible in

any proceeding or assessment challenge relating to the Properties in any subsequent year.

18. Waiver. No waiver of any breach of this Agreement shall be deemed a continuing waiver of that breach or a waiver of any other breach of this Agreement.

19. Amendments or Modifications. This Agreement may not be amended, modified or altered in any manner whatsoever, except by a further written agreement duly authorized and signed by the parties.

20. Authorization to Sign Agreement. Each person signing this Agreement on behalf of either party represents and warrants that the person holds the position indicated beneath the person's signature and that the person has the requisite corporate or other authority to sign this Agreement on behalf of the party. Each party represents that entry into this Agreement is not in contravention of any agreement or undertaking to which the party is bound.

21. Reading of Agreement. Each person signing this Agreement on behalf of either party acknowledges that the person has read this Agreement, that the person understands the terms and conditions of this Agreement, that the person (if other than an attorney for the party) has been advised by legal counsel concerning this Agreement, and that the person freely and voluntarily signs this Agreement.

[Signatures on Following Page]



Dated: January 12, 2024.

**WALGREEN CO.**

BY: Reinhart Boerner Van Deuren s.c.  
22 East Mifflin Street, Suite 700  
Madison, WI 53703



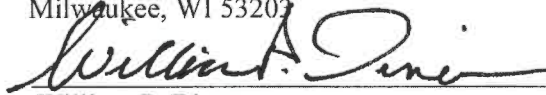
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Don M. Millis  
State Bar ID No. 1015755  
Sara Stellpflug Rapkin  
State Bar ID No. 1076539  
Shawn E. Lovell  
State Bar ID No. 1079801  
Olivia J. Schwartz  
State Bar ID No. 1115787

Dated: 1/16/2024

**APPROVED AS TO FORM**

BY: Crivello, Nichols & Hall S.C.  
710 North Plankinton Avenue, Suite 500  
Milwaukee, WI 53203



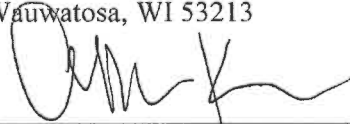
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William P. Dineen  
State Bar ID No. 1016733  
Kiley B. Zellner  
State Bar ID No. 1056806

Dated: Jan 16, 2024

**CITY OF WAUWATOSA**

By: City Attorney  
7725 West North Avenue  
Wauwatosa, WI 53213



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Alan Kesner, City Attorney

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