

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

The Medical College of Wisconsin, Inc. vs. City of
Wauwatosa

**Electronic Filing
Notice**

Case No. 2023CV004586
Class Code: Money Judgment

FILED

06-21-2023

Anna Maria Hodges

Clerk of Circuit Court

2023CV004586

Honorable Gwen
Connolly-44

Branch 44

CITY OF WAUWATOSA
7725 W. NORTH AVENUE
WAUWATOSA WI 53213

Received by

JUN 21 2023

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: June 21, 2023

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6/21

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STATE OF WISCONSIN
MILWAUKEE COUNTY

CIRCUIT COURT

THE MEDICAL COLLEGE OF WISCONSIN, INC.,
a Wisconsin non-profit college,
8701 Watertown Plank Road
Wauwatosa, WI, 53226,

For Official Use:

Plaintiff,

vs.

Case No.

CITY OF WAUWATOSA,
a Wisconsin municipal corporation,
7725 W. North Avenue
Wauwatosa, WI, 53213,

Classification: 30301 – Money
Judgment

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 Smitha Chintamaneni of Husch Blackwell LLP, Plaintiff's attorney, whose address is 511 North Broadway, 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 20th day of June, 2023.

HUSCH BLACKWELL LLP
Attorneys for Plaintiff
The Medical College of Wisconsin, Inc.

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STATE OF WISCONSIN
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CIRCUIT COURT

THE MEDICAL COLLEGE OF WISCONSIN, INC.,
a Wisconsin non-profit college,
8701 Watertown Plank Road
Wauwatosa, WI 53226,

For Official Use:

Plaintiff,

Case No.

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Classification: 30301 –
Money Judgment

CITY OF WAUWATOSA,
a Wisconsin municipal corporation,
7725 W. North Avenue
Wauwatosa, WI 53213,

Defendant.

COMPLAINT

Plaintiff, The Medical College of Wisconsin, Inc. (“MCW”), 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 is an action filed pursuant to Wis. Stat. § 74.35 to recover that amount of the general property taxes imposed upon MCW for the 2022 tax year because the City’s January 1, 2022 personal property assessments newly issued in 2022, as well as omitted 2021 tax notices issued in 2022, are unlawful (i.e., subject to tax property which has been assessed when it is exempt from property tax).

PARTIES

2. Plaintiff is a Wisconsin non-profit college, with its principal place of business located at 8701 Watertown Plank Road, Wauwatosa, Wisconsin 53226.

3. Defendant is a Wisconsin municipal corporation with its principal place of business located at 7725 W. North Avenue, Wauwatosa, Wisconsin 53213.

VENUE AND JURISDICTION

4. This Court has 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.

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

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

FACTS

2022 Newly Issued Personal Property

7. At all relevant times, MCW owned personal property located in the City at 8701 W. Watertown Plank Road, Account No. 297-440; 8900 W. Doyne Avenue, Account No. 297-443; 8800 W. Doyne Avenue, Account No. 297-444; 8850 William Coffey Drive, Account No. 297-445; 8777 W. Connell Court, Account No. 297-446; and 8750 William Coffey Drive, Account No. 297-447 (collectively the “2022 Newly Issued Personal Property”).

8. For the tax year 2022, the City assessed the 2022 Newly Issued Personal Property at a combined total of \$3,268,100, consisting of \$1,543,700 for Account No. 297-440, \$99,700 for Account No. 297-443, \$496,500 for Account No. 297-444, \$560,000 for Account No. 297-445, \$533,300 for Account No. 297-446, and \$34,900 for Account No. 297-447 (collectively the “2022 Newly Issued Personal Property Assessments”), on the basis that the 2022 Newly Issued Personal Property was not exempt under Wis. Stat. § 70.11.

9. MCW's use of the 2022 Newly Issued Personal Property was exempt from property taxes under Wis. Stat. § 70.11(3). Thus, the 2022 Newly Issued Personal Property Assessments unlawfully included \$3,268,100 of property which qualified for exemption pursuant to Wis. Stat. § 70.11 ("2022 Newly Issued Unlawful Personal Property Assessments").

10. In December 2022, the City issued Personal Property Tax Bills based on the 2022 Newly Issued Unlawful Personal Property Assessments, which alleged a total combined net property tax due of \$71,219.21, consisting of consisting of \$33,640.68 for Account No. 297-440, \$2,172.69 for Account No. 297-443, \$10,819.85 for Account No. 297-444, \$12,203.65 for Account No. 297-445, \$11,621.80 for Account No. 297-446, and \$760.54 for Account No. 297-447.

11. MCW has timely paid the taxes alleged to be due for the 2022 tax year.

12. MCW has fully complied with all statutory requirements under its control for procedurally objecting to the 2022 Newly Issued Personal Property Assessments under Wis. Stat. § 74.35.

13. By letters dated January 17, 2023, MCW timely served refund claims to recover unlawful taxes paid as a result of the 2022 Newly Issued Personal Property Assessments ("2022 Newly Issued Personal Property Refund Claims") in a combined amount of not less than \$71,219.21, plus interest as provided by law.

14. MCW was not notified by the City that its 2022 Newly Issued Personal Property Refund Claims were disallowed.

15. Pursuant to Wis. Stat. § 74.35(3)(a), the 2022 Newly Issued Personal Property Refund Claims were deemed denied on April 18, 2023.

16. Pursuant to Wis. Stat. § 74.35(3)(d), MCW timely commences this action relating within 90 days after its 2022 Newly Issued Personal Property Refund Claims have been automatically disallowed.

17. MCW has not contested the 2022 Newly Issued Personal Property Assessments under Wis. Stat. §§ 74.33 or 806.04.

18. By way of information only, and in addition to the 2022 Newly Issued Personal Property Assessments, MCW also owned personal property located in the City at 1000 N. 92nd Street, Account No. 297-441, at 999 N. 92nd Street, Account No. 297-442 (which, in 2022, was combined by the City into Account No. 297-681 owned by Children's Specialty Group, Inc. and is subject to litigation now pending in Milwaukee County Circuit Court Case No. 2023CV004459), and at 925 N. 87th Street, Account No. 297-456 in tax years 2021 and 2022. These personal property assessments are already subject to litigation pending in Milwaukee County Circuit Court Case No. 2021CV007368.

Omitted 2021 Personal Property Assessments

19. At all relevant times, MCW owned personal property located in the City at 8920 W. Connell Court, Account No. 297-462, and 8915 W. Connell Court, Account No. 297-463 (together the "2021 Personal Property").

20. The City sent assessment notices dated April 28, 2022 of omitted taxes for the 2021 Personal Property at a combined total of \$923,600, consisting of \$520,400 for Account No. 297-462, and \$403,200 for Account No. 297-463 (the "Omitted 2021 Personal Property Assessments"), on the basis that the 2021 Personal Property was not exempt under Wis. Stat. § 70.11.

21. The City did not assess Account Nos. 297-462 and 297-463 in 2021.

22. MCW's use of the 2021 Personal Property was exempt from property taxes under Wis. Stat. § 70.11(3). Thus, the Omitted 2021 Personal Property Assessments unlawfully included \$923,600 of property which qualified for exemption pursuant to Wis. Stat. § 70.11 ("Unlawful Omitted 2021 Personal Property Assessments").

23. The City issued a General Invoice dated December 7, 2022 based on the Unlawful Omitted 2021 Personal Property Assessments, which alleged a total combined net property tax due of \$19,261.65, consisting of \$10,852.93 for Account No. 297-462, and \$8,408.72 for Account No. 297-463.

24. MCW has timely paid the omitted taxes alleged to be due for the 2021 tax year.

25. MCW has fully complied with all statutory requirements under its control for procedurally objecting to the Unlawful Omitted 2021 Personal Property Assessments under Wis. Stat. § 74.35.

26. By letters dated January 18, 2023, MCW timely served refund claims to recover unlawful taxes paid as a result of the Unlawful Omitted 2021 Personal Property Assessments ("Omitted 2021 Personal Property Refund Claims") in a combined amount of no less than \$19,261.65, plus interest as provided by law.

27. MCW was not notified by the City that its Omitted 2021 Personal Property Refund Claims were disallowed.

28. Pursuant to Wis. Stat. § 74.35(3)(a), MCW's Omitted 2021 Personal Property Refund Claims were deemed denied on April 18, 2023.

29. Pursuant to Wis. Stat. § 74.35(3)(d), MCW timely commences this action relating within 90 days after its Omitted 2021 Personal Property Refund Claims have been automatically disallowed.

30. MCW has not contested the Unlawful Omitted 2021 Personal Property under Wis. Stat. §§ 74.33 or 806.04.

CLAIMS FOR RELIEF

First Cause of Action—Unlawful Assessment of 2022 Newly Issued Personal Property

31. All of the foregoing paragraphs are incorporated as if fully re-alleged.
32. The 2022 Newly Issued Personal Property Assessments are improper in that they assess exempt property.
33. Accordingly, the correct 2022 net personal property tax should be \$0.
34. MCW is aggrieved by the imposition of general property tax based on the City's 2022 Newly Issued Unlawful Personal Property Assessments.

Second Cause of Action—Unlawful Assessment of 2021 Omitted Personal Property

35. All of the foregoing paragraphs are incorporated as if fully re-alleged.
36. The Omitted 2021 Personal Property Assessments are improper in that they assess exempt property.
37. Accordingly, the correct 2021 net personal property tax should be \$0.
38. MCW is aggrieved by the imposition of general property tax based on the City's Unlawful Omitted 2021 Personal Property Assessments.

WHEREFORE, MCW respectfully requests that this Court:

- A. Declare, Find and/or Order the 2022 Newly Issued Personal Property Assessments to be unlawful;
- B. Declare, Find and/or Order the Omitted 2021 Personal Property Assessments to be unlawful;

C. Declare, Find and/or Order that MCW paid more than its fair share of taxes due to the assessment of exempt property in 2022;

D. Declare, Find and/or Order that MCW is entitled to a refund of the unlawful taxes assessed by the City pursuant to Wis. Stat. § 74.35, together with interest pursuant to Wis. Stat. § 74.35(4);

E. Enter a judgment in favor of MCW and against the City in the amount of (i) not less than \$71,219.21 as tax paid on the amount of the 2022 Newly Issued Unlawful Personal Property Assessments; (ii) interest on the unlawful tax paid pursuant to Wis. Stat. § 74.35(4); and (iii) costs and attorneys' fees allowed by law;

F. Enter a judgment in favor of MCW and against the City in the amount of (i) not less than \$19,261.65 as tax paid on the amount of the Unlawful Omitted 2021 Personal Property Assessments; (ii) interest on the unlawful tax paid pursuant to Wis. Stat. § 74.35(4); and (iii) costs and attorneys' fees allowed by law; and

G. Grant any and all other relief that the Court deems just and equitable under the circumstances.

Dated this 20th day of June, 2023.

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The Medical College of Wisconsin, Inc.

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