

STATE OF WISCONSIN CIRCUIT COURT MILWAUKEE

Children's Specialty Group, Inc. vs. City of Wauwatosa

**Electronic Filing
Notice**

Case No. 2023CV004459

Class Code: Money Judgment

FILED

06-15-2023

Anna Maria Hodges

Clerk of Circuit Court

2023CV004459

Honorable Gwen

Connolly-44

Branch 44

CITY OF WAUWATOSA
7725 W. NORTH AVENUE
WAUWATOSA WI 53213

Received by

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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: June 15, 2023

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STATE OF WISCONSIN
MILWAUKEE COUNTY

CIRCUIT COURT

CHILDREN'S SPECIALTY GROUP, INC.,
a Wisconsin non-stock corporation,
999 N. 92nd Street
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 15th day of June, 2023.

HUSCH BLACKWELL LLP
Attorneys for Plaintiff
Children's Specialty Group, Inc.

Electronically signed

By: s/Smitha Chintamaneni

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Smitha Chintamaneni

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999 N. 92nd Street
Wauwatosa, WI 53226,

Plaintiff,

vs.

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Defendant.

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COMPLAINT

Plaintiff, Children's Specialty Group, Inc. ("CSG"), by and through its attorneys, Husch Blackwell LLP, states and alleges its Complaint against Defendant, the 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 tax imposed upon CSG for the 2022 tax year and/or subsequent years because the City's January 1, 2022 assessment was unlawful (i.e., subjects to tax property which is exempt).

PARTIES

2. Children's Specialty Group is a Wisconsin non-stock corporation, with its principal place of business located at 999 North 92nd Street, 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

7. At all relevant times, CSG owned personal property in the City at various locations on the Milwaukee Regional Medical Center campus, Account No. 297-681 (the "2022 Personal Property").

8. CSG is a non-profit, public benefit corporation exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code.

9. For the tax year 2022, the City assessed the 2022 Personal Property at \$979,500 (the "2022 Assessment"), on the basis that the 2022 Personal Property was not exempt under Wis. Stat. § 70.11.

10. CSG's use of the 2022 Personal Property was exempt from property taxes under Wis. Stat. § 70.11(3), Wis. Stat. § 70.11(4), and/or Wis. Stat. § 70.11(4m), and/or Wis. Stat. § 70.11(25) and therefore contends the 2022 Assessment unlawfully included \$979,500 of property which qualified for exemption pursuant to Wis. Stat. § 70.11 ("Unlawful Assessment").

11. In December 2022, the City issued a Personal Property Tax Bill based on the 2022 Assessment, which alleged a total property tax due of \$21,345.49.

12. CSG timely paid the tax alleged to be due for the 2022 tax year.

13. CSG has fully complied with all statutory requirements under its control for procedurally objecting to the 2022 Assessment under Wis. Stat. § 74.35.

14. By letter dated January 17, 2023, CSG timely served a refund claim to recover unlawful taxes paid as a result of the Unlawful Assessment (“Refund Claim”), in an amount of not less than \$21,345.49, plus interest as provided by law.

15. CSG was not notified by the City that its Refund Claim was disallowed.

16. Pursuant to Wis. Stat. § 74.35(3)(a), the Refund Claim was deemed denied on April 18, 2023.

17. Pursuant to Wis. Stat. § 74.35(3)(d), CSG timely commences the action relating to the 2022 tax year within 90 days after its Refund Claim was disallowed.

18. CSG has not contested the 2022 Assessment of the 2022 Personal Property under Wis. Stats. §§ 74.33 or 806.04.

CLAIM FOR RELIEF

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

20. The 2022 Assessment resulted in an Unlawful Assessment of the 2022 Personal Property, as defined in Wis. Stat. § 74.35, because the City’s 2022 Assessment included exempt personal property.

21. Accordingly, the correct 2022 net real property tax should be \$0.

22. CSG is aggrieved by the imposition of general property tax based on the Unlawful Assessment by the City and is, therefore, entitled to a refund under Wis. Stat. § 74.35 of the unlawful tax it paid to the City for the 2022 tax year, together with interest as provided by Wis. Stat. § 74.35(4).

WHEREFORE, CSG respectfully requests that this Court:

A. Declare, Find and/or Order the 2022 Assessment to be unlawful;

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

C. Declare, Find and/or Order that CSG 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);

D. Enter a judgment in favor of CSG and against the City in the amount of (i) not less than \$21,345.49 as tax paid on the amount of the Unlawful Assessment; (ii) interest on the unlawful tax paid pursuant to Wis. Stat. § 74.35(4); and (iii) costs and attorneys' fees allowed by law; and

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

Dated this 15th day of June, 2023.

HUSCH BLACKWELL LLP
Attorneys for Plaintiff
Children's Specialty Group, Inc.

Electronically signed

By: s/Smitha Chintamaneni

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