

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

Froedtert Health, Inc. vs. City of Wauwatosa

**Electronic Filing
Notice**Case No. 2023CV007351
Class Code: Money Judgment

FILED

09-29-2023

Anna Maria Hodges

Clerk of Circuit Court

2023CV007351

Honorable William

Sosnay-08

Branch 08

CITY OF WAUWATOSA
7725 WEST NORTH AVE.
WAUWATOSA WI 53213

Received by

DEC 15 2023

City Clerk's Office

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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: September 29, 2023

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Branch 08

STATE OF WISCONSIN CIRCUIT COURT MILWAUKEE COUNTY

FROEDTERT HEALTH, INC.
9200 WEST WISCONSIN AVENUE
WAUWATOSA, WISCONSIN 53226,

PLAINTIFF,

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

v.

CITY OF WAUWATOSA
7725 WEST NORTH AVENUE
WAUWATOSA, WISCONSIN 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 901 North 9th Street, Milwaukee, Wisconsin 53202, 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 29th day of September, 2023.

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

By: Electronically signed by Alan Marcuvitz
Alan Marcuvitz, SBN 1007942
Steven L. Nelson, SBN 1009779
Barry R. White, SBN 1020117
Craig M. Salzer, SBN 1026264
Katie L. Bireley, SBN 1106622

P.O. ADDRESS:

411 E. Wisconsin Avenue, Suite 1000
Milwaukee, Wisconsin 53202
Phone: (414) 287-1401(AM)
(414) 287-1463 (SN)
(414) 270-2516 (BW)
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CITY OF WAUWATOSA
7725 WEST NORTH AVENUE
WAUWATOSA, WISCONSIN 53213,

DEFENDANT.

COMPLAINT

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

Nature of Action and Parties

1. This action is brought under WIS. STAT. §§ 74.37(3)(d) for a refund of excessive property taxes on property which is partially exempt from taxation by law and which also has been excessively assessed by the City for the year 2023, plus statutory interest, with respect to a parcel of real property in the City (the "Property").

2. Froedtert Health, Inc. is a Wisconsin nonstock, nonprofit corporation with its principal office at 9200 West Wisconsin Avenue, Wauwatosa, Wisconsin.

3. Froedtert is responsible for the payment of real estate taxes and the prosecution of property tax disputes involving the Property and is authorized to bring this action in its own name.

4. The City is a body corporate and politic, duly organized as a municipal corporation under Wisconsin law, with its principal office located at 7725 West North Avenue, Wauwatosa, Wisconsin.

5. The Property is located at 10000 West Bluemound Road in the City.

6. The Property is identified on the City's tax records as Parcel Number 409-0059-002.

Jurisdiction and Venue

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

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

Background Facts

9. 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 assessment level and the 2023 mill rate are not yet known.

10. For 2023, the assessment of the Property was originally set by the City Assessor at \$26,626,400.

11. Froedtert appealed the 2023 assessment of the Property by timely filing an objection with the City, pursuant to Wis. Stats. §70.47, and otherwise complying with all of the requirements of Wis. Stat. §70.47, except §70.47(13).

12. Froedtert 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. Prior thereto, the Board of Review approved a Stipulation to reduce the assessment to \$15,446,500 and notified Froedtert on August 4, 2023 of both actions. Attached as **Exhibit A** is a true and correct copy of the Waiver and Stipulation.

13. Based on the City's 2023 assessment as set by the City and 2022 mill rate, the City will be imposing an estimated net tax of \$336,613.84 on the Property.

Claim for Relief

14. The allegations of paragraphs 1-13 are incorporated as if fully alleged herein.

15. The value of the Property as of January 1, 2023 is \$7,741,800 because it is partially exempt.

16. As a result, the 2023 assessment of the Property is excessive in at least the amount of \$7,704,700.

17. The correct estimated 2023 property tax on the Property, based on the 2022 tax rate, is no higher than approximately \$168,711.

18. Based on the City's 2022 tax rate of \$21.792240 per \$1,000 of assessed value described in paragraph 9, the estimated net property tax to be imposed on the Property for tax year 2023 will be excessive in the amount of approximately \$167,902.

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

20. Froedtert is entitled to a refund of the 2023 net tax in the estimated amount of \$167,902, or such amount as may be determined to be due to Froedtert, plus statutory interest.

WHEREFORE, Froedtert prays:

A. For a determination that the 2023 assessment of the Property should be \$7,741,800 because it is partially exempt, and the 2023 estimated property tax imposed on the Property should be no higher than \$168,711.

B. For judgment in favor of Froedtert and against the City for such amount as may be determined to be due to Froedtert, plus statutory interest.

C. For an award of all litigation costs incurred by Froedtert in this action, including the reasonable fees of its attorneys; and

D. For such other and further relief as the Court deems appropriate and just.

Dated at Milwaukee, Wisconsin this 29th day of September, 2023.

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

By: Electronically signed by Alan Marcuvitz
Alan Marcuvitz, SBN 1007942
Steven L. Nelson, SBN 1009779
Barry R. White, SBN 1020117
Craig M. Salzer, SBN 1026264
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katie.bireley@vonbriesen.com

2023 Board of Review
City Wauwatosa
Milwaukee County
State of Wisconsin



STIPULATION

The undersigned accepts the following change to the 2023 assessment for the property located at:

Site address: 10000 W BLUEMOUND RD & 601 N 99TH ST

Parcel Identification Number: 409-0059-002

	<u>From</u>	<u>To</u>	<u>Change</u>
Total	\$26,626,400	\$15,446,500	-\$11,179,900

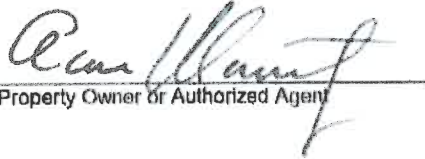
As the owner/agent of the above described property, I understand that Sec. 70.47(12), Wisconsin Statutes, grants me the right to receive written notice from the Board of Review that it is changing my assessment on the assessment roll. If that assessment is entered on the assessment roll, then I hereby waive my right to receive notice of said change from the Board of Review. Also, under Sec. 70.47, Wisconsin Statutes, it is agreed that I reserve my right to file an excessive assessment claim in circuit court under Wisconsin Statutes 74.37.

The Owner/Agent and Assessor's office jointly agree to waive the Board of Review hearing under Wisconsin Statutes 70.47(8m) and attached form will be submitted to the Board of Review for its approval. Said waiver will reflect stipulated value noted above.

Dated at the City of Wauwatosa, Milwaukee County, Wisconsin
this

3 day of August, 2023

By:


Property Owner or Authorized Agent

DETERMINATION

The Board of Review accepts the foregoing stipulation and assessment regarding the parcel located at:

Site address: 10000 W BLUEMOUND RD & 601 N 99TH ST

Parcel Identification Number: 409-0059-002

Dated at the City of Wauwatosa, Milwaukee County, Wisconsin
this

1th day of August, 2023

By:



Board of Review Chairperson

EXHIBIT A

RECEIVED

By Misty Richey at 8:39 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 Froedtert Health, Inc.	Agent name (if applicable) * Attys. Alan Marcuvitz, Steven Nelson, Katie L. Bireley
Requestor's mailing address 9200 W. Wisconsin Ave., Milwaukee, WI 53226	Agent's mailing address von Briesen & Roper, s.c. 411 E. Wisconsin Ave., #1000, Milwaukee, WI 53202
Requestor's telephone number (414) 805 - 4019	Agent's telephone number (414) 287 - 1401 Alan
<input checked="" type="checkbox"/> Land Line <input type="checkbox"/> Cell Phone	<input checked="" type="checkbox"/> Land Line <input type="checkbox"/> Cell Phone
Requestor's email address amy.marquardt@froedtert.com	Agent's email address alan.marcuvitz@vonbriesen.com, steven.nelson@vonbriesen.com, katie.bireley@vonbriesen.com

Property address 10000 W Bluemound Road, Wauwatosa, WI 53226	
Legal description or parcel number 409-0059-002	
Taxpayer's assessment as established by assessor - Value as determined due to waiving of BOR hearing \$ 26,626,400 15,446,500	
Property owner's opinion of value \$ Property is exempt; if not fully exempt, value should be no higher than \$4,500,000.	
Basis for request Property is currently in litigation under Case No. 22-CV-4834.	
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 with 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