

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

WALGREEN CO. vs. CITY OF WAUWATOSA

**Electronic Filing
Notice**

Case No. 2023CV005489

Class Code: Money Judgment

FILED

07-25-2023

Anna Maria Hodges

Clerk of Circuit Court

2023CV005489

Honorable Gwen

Connolly-44

Branch 44

CITY OF WAUWATOSA
7725 WEST NORTH AVENUE
WAUWATOSA WI 53213

Case number 2023CV005489 was electronically filed with/converted by the Milwaukee County Circuit Court office. The electronic filing system is designed to allow for fast, reliable exchange of documents in court cases.

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Pro Se opt-in code: a5652a

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: July 26, 2023

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FILED
07-25-2023
Anna Maria Hodges
Clerk of Circuit Court
2023CV005489
Honorable Gwen
Connolly-44
Branch 44

STATE OF WISCONSIN
CIRCUIT COURT
MILWAUKEE COUNTY

WALGREEN CO.,
300 Wilmot Road
Deerfield, Illinois 60015,

Plaintiff,

v.

Case No. _____
Money Judgment - 30301

CITY OF WAUWATOSA
7725 W. North Avenue
Wauwatosa, WI 53213,

Defendant.

SUMMONS

STATE OF WISCONSIN:

To each entity named above as Defendant:

You are hereby notified that the plaintiff named above have filed a lawsuit or other legal action against you. The Complaint, which is attached, states the nature and basis of the legal action.

Within 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 or electronically filed with the Court, whose address is 901 North 9th Street, Room 104, Milwaukee, Wisconsin 53233, and to plaintiff's attorneys, Reinhart Boerner Van Deuren s.c., whose address is 22 East Mifflin Street, Suite 700, Madison, Wisconsin 53703. You may have an attorney help or represent you.

If you do not provide a proper answer within 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 25th day of July, 2023.

Reinhart Boerner Van Deuren s.c.
22 East Mifflin Street, Suite 700
Milwaukee, WI 53703
Telephone: 608-229-2200
Facsimile: 608-229-2100

Mailing Address:
P.O. Box 2018
Milwaukee, WI 53701-2018

Electronically signed by Don M. Millis

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
Attorneys for Plaintiff

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STATE OF WISCONSIN
CIRCUIT COURT
MILWAUKEE COUNTY

WALGREEN CO.,
300 Wilmot Road
Deerfield, Illinois 60015,

Plaintiff,

v.

Case No. _____
Money Judgment - 30301

CITY OF WAUWATOSA
7725 W. North Avenue
Wauwatosa, WI 53213,

Defendant.

COMPLAINT

Plaintiff Walgreen Co. ("Plaintiff"), by its undersigned counsel, Reinhart Boerner Van Deuren s.c., for its Complaint against the defendant City of Wauwatosa (the "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 real estate taxes imposed on Plaintiff by the City for the year 2022, plus statutory interest, with respect to three parcels of real property in the City (the "Properties").

2. Plaintiff is the tenant of the Properties, is responsible for the payment of property taxes and the prosecution of property tax disputes involving the Properties 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. Wauwatosa Avenue in the City.

4. The Properties are located in the City and are identified in the City's records as follows:

| Address | Parcel No. |
|-----------------------------|--------------|
| 10800 West Capitol Drive | 256-0075-007 |
| 2656 North Wauwatosa Avenue | 331-0777-001 |
| 6600 West State Street | 384-0009-002 |

JURISDICTION AND VENUE

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

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

BACKGROUND FACTS

2022 Assessment - Background Facts

7. The Department of Revenue determined that the aggregate ratio of property assessed in the City was 84.3822235% as of January 1, 2022.

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

9. For 2022, the City's assessor set the assessments of the Properties as follows:

| Parcel No. | Assessment |
|--------------|--------------|
| 256-0075-007 | \$ 3,368,300 |
| 331-0777-001 | \$ 3,412,200 |
| 384-0009-002 | \$ 3,643,400 |

10. Plaintiff appealed the 2022 assessments of the Properties by filing timely objections 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).

11. The City's Board of Review without justification unlawfully denied Plaintiff a hearing and dismissed its objections.

12. Plaintiff timely paid the property taxes imposed by the City on the Properties for 2023, or the required installment thereof.

13. On January 30, 2023, Plaintiffs timely and personally served on the City Clerk three claims for excessive assessment pursuant to Wis. Stat. § 74.37(2) (the "2022 Claims"). True and correct copies of the 2022 Claims are attached hereto as **Exhibit A** and are incorporated herein by reference.

14. The City failed to respond to the 2022 Claims. Therefore, the 2022 Claims are deemed disallowed.

CLAIM FOR RELIEF

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

2022 Assessment - Claim for Relief

16. The fair market value of the Properties as of January 1, 2022 were no higher than the following:

| Parcel No. | FMV |
|-------------------|--------------|
| 256-0075-007 | \$ 2,115,000 |
| 331-0777-001 | \$ 1,700,000 |
| 384-0009-002 | \$ 2,000,000 |

17. Based on the aggregate ratio of 84.3822235%, the correct assessments of the Properties for 2022 is no higher than the following:

| Parcel No. | Correct Assessment |
|-------------------|---------------------------|
| 256-0075-007 | \$ 1,784,684 |
| 331-0777-001 | \$ 1,434,498 |
| 384-0009-002 | \$ 1,687,644 |

18. Based on the tax rate of \$21.79224 per \$1,000 of assessed value, the correct amount of property tax on the Properties for 2022 should be no higher than the following:

| Parcel No. | Correct Tax |
|-------------------|--------------------|
| 256-0075-007 | \$ 38,892 |
| 331-0777-001 | \$ 31,261 |
| 384-0009-002 | \$ 36,778 |

19. The 2022 assessments of the Properties, as set by the City's Assessor and compared with other commercial Properties in the City are excessive and, upon information and belief, violates Article VIII, Section 1 (i.e., the Uniformity Clause) of the Wisconsin Constitution. As a result, the property taxes imposed on the Properties for 2022 may be excessive in at least the amount of \$120,171.

20. Upon information and belief the City will take the position that the assessment of property in the City is at market value and, if true, then an over assessments of the Properties constitutes a Uniformity Clause violation. As a result of the assessments of the Properties, the Properties bear an unreasonably disproportionate share of taxes on an ad valorem basis.

21. Plaintiff is entitled to a refund of 2022 tax in the amount of at least \$120,171, or such greater amount as may be determined to be due to Plaintiff, plus statutory interest.

WHEREFORE, Plaintiff respectfully requests the following relief:

A. A determination that the assessments of the Properties for 2022 should be no higher than the following:

| Parcel No. | Correct Assessment |
|--------------|--------------------|
| 256-0075-007 | \$ 1,784,684 |
| 331-0777-001 | \$ 1,434,498 |
| 384-0009-002 | \$ 1,687,644 |

B. A determination that the correct taxes on the Properties for 2022 should be no higher than the following:

| Parcel No. | Correct Tax |
|--------------|-------------|
| 256-0075-007 | \$ 38,892 |
| 331-0777-001 | \$ 31,261 |
| 384-0009-002 | \$ 36,778 |

C. Judgment in the amount of \$121,171, or such greater amount as may be determined due to Plaintiff, plus statutory interest;

D. An award of all litigation costs incurred by Plaintiff in this action, including the reasonable fees of its attorneys; and

E. Such other and further relief as the Court deems appropriate and just.

Dated this 25th day of July, 2023.

Reinhart Boerner Van Deuren s.c.
22 East Mifflin Street, Suite 700
Madison, WI 53703
Telephone: 608-229-2200
Facsimile: 608-229-2100

Mailing Address:
P.O. Box 2018
Madison, WI 53701-2018

Electronically signed by Don M. Millis

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
Attorneys for Plaintiff



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 27, 2023

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

Received by

JAN 30 2023

City Clerk's Office

Dear Mr. Braatz:

Re: Tax Parcel No. 256-0075-07

Now comes Claimant, Walgreen Co., tenant of parcel 256-0075-07 (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 2022, 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.

Milwaukee • Madison • Waukesha • Chicago, IL
Rockford, IL • Minneapolis, MN • Denver, CO • Phoenix, AZ



Steven Braatz, Clerk
January 27, 2023
Page 2

4. The Property is located at 10800 W. Capitol Drive within the City and is identified in the City's records as Tax Parcel No. 256-0075-07.

5. The Wisconsin Department of Revenue determined that the aggregate ratio of property assessed in the City was 84.3822235% as of January 1, 2022.

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

7. For 2022, the City's assessor set the assessment of the Property at \$3,368,300.

8. Claimant appealed the 2022 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).

9. The City's Board of Review without justification unlawfully denied Claimant a hearing and dismissed its objection.

10. The City imposed tax on the Property in the amount of \$73,402.80.

11. Claimant timely paid the property taxes imposed by the City on the Property for 2022, or the required installment thereof.

12. The fair market value of the Property as of January 1, 2022 was no higher than \$2,115,000.

13. Based on the aggregate ratio 84.3822235%, the correct assessment of the Property for 2022 is no higher than \$1,784,684.

14. Based on the tax rate of \$21.79224 per \$1,000 of assessed value, the correct amount of property tax on the Property for 2022 should be no higher than \$38,892.

15. The 2022 assessment of the Property, as set by the City's Board of Review and compared with other commercial properties in the City was excessive and, upon information and belief, violated Article VIII, Section 1 (i.e., the Uniformity Clause) of the Wisconsin Constitution. As a result, the property tax imposed on the Property for 2022 was excessive in at least the amount of \$34,511.

16. Claimant is entitled to a refund of 2022 tax in the amount of \$34,511, or such greater amount as may be determined to be due to Claimant, plus statutory interest.

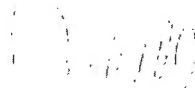
Steven Braatz, Clerk
January 27, 2023
Page 3

17. Upon information and belief the City will take the position that the assessment of property in the City is at market value and, if true, then an over assessment of the Property constitutes a Uniformity Clause violation. As a result of the assessment of the Property, the Property bears an unreasonably disproportionate share of taxes on an ad valorem basis.

18. The amount of this claim is \$34,511, plus interest thereon.

Dated at Madison, Wisconsin, this 27th day of January, 2023.

Sincerely yours,



Don M. Millis
Agent for Claimant



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 27, 2023

CLAIM FOR EXCESSIVE ASSESSMENT

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

SERVED BY PROCESS SERVER

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

Received by

JAN 30 2023

City Clerk's Office

Dear Mr. Braatz:

Re: Tax Parcel No. 331-0777-01

Now comes Claimant, Walgreen Co., tenant of parcel 331-0777-01 (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 2022, 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.

Steven Braatz, Clerk
January 27, 2023
Page 2

4. The Property is located at 2656 North Wauwatosa Avenue within the City and is identified in the City's records as Tax Parcel No. 331-0777-01.

5. The Wisconsin Department of Revenue determined that the aggregate ratio of property assessed in the City was 84.3822235% as of January 1, 2022.

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

7. For 2022, the City's assessor set the assessment of the Property at \$3,412,200.

8. Claimant appealed the 2022 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).

9. The City's Board of Review without justification unlawfully denied Claimant a hearing and dismissed its objection.

10. The City imposed tax on the Property in the amount of \$74,359.49.

11. Claimant timely paid the property taxes imposed by the City on the Property for 2022, or the required installment thereof.

12. The fair market value of the Property as of January 1, 2022 was no higher than \$1,700,000.

13. Based on the aggregate ratio 84.3822235%, the correct assessment of the Property for 2022 is no higher than \$1,434,498.

14. Based on the tax rate of \$21.79224 per \$1,000 of assessed value, the correct amount of property tax on the Property for 2022 should be no higher than \$31,261.

15. The 2022 assessment of the Property, as set by the City's Board of Review and compared with other commercial properties in the City was excessive and, upon information and belief, violated Article VIII, Section 1 (i.e., the Uniformity Clause) of the Wisconsin Constitution. As a result, the property tax imposed on the Property for 2022 was excessive in at least the amount of \$43,099.

16. Claimant is entitled to a refund of 2022 tax in the amount of \$43,099, or such greater amount as may be determined to be due to Claimant, plus statutory interest.

Steven Braatz, Clerk
January 27, 2023
Page 3

17. Upon information and belief the City will take the position that the assessment of property in the City is at market value and, if true, then an over assessment of the Property constitutes a Uniformity Clause violation. As a result of the assessment of the Property, the Property bears an unreasonably disproportionate share of taxes on an ad valorem basis.

18. The amount of this claim is \$43,099, plus interest thereon.

Dated at Madison, Wisconsin, this 27th day of January, 2023.

Sincerely yours,



Don M. Millis
Agent for Claimant



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 27, 2023

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

Received by

JAN 30 2023

City Clerk's Office

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 2022, 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.

Steven Braatz, Clerk
January 27, 2023
Page 2

5. The Wisconsin Department of Revenue determined that the aggregate ratio of property assessed in the City was 84.3822235% as of January 1, 2022.

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

7. For 2022, the City's assessor set the assessment of the Property at \$3,643,400.

8. Claimant appealed the 2022 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).

9. The City's Board of Review without justification unlawfully denied Claimant a hearing and dismissed its objection.

10. The City imposed tax on the Property in the amount of \$79,339.03.

11. Claimant timely paid the property taxes imposed by the City on the Property for 2022, or the required installment thereof.

12. The fair market value of the Property as of January 1, 2022 was no higher than \$2,000,000.

13. Based on the aggregate ratio 84.3822235%, the correct assessment of the Property for 2022 is no higher than \$1,687,644.

14. Based on the tax rate of \$21.79224 per \$1,000 of assessed value, the correct amount of property tax on the Property for 2022 should be no higher than \$36,778.

15. The 2022 assessment of the Property, as set by the City's Board of Review and compared with other commercial properties in the City was excessive and, upon information and belief, violated Article VIII, Section 1 (i.e., the Uniformity Clause) of the Wisconsin Constitution. As a result, the property tax imposed on the Property for 2022 was excessive in at least the amount of \$42,561.

16. Claimant is entitled to a refund of 2022 tax in the amount of \$42,561, or such greater amount as may be determined to be due to Claimant, plus statutory interest.

17. Upon information and belief the City will take the position that the assessment of property in the City is at market value and, if true, then an over assessment of the Property constitutes a Uniformity Clause violation. As a result of the assessment of the Property, the Property bears an unreasonably disproportionate share of taxes on an ad valorem basis.

Steven Braatz, Clerk
January 27, 2023
Page 3

18. The amount of this claim is \$42,561, plus interest thereon.

Dated at Madison, Wisconsin, this 27th day of January, 2023.

Sincerely yours,

Don M. Millis
Agent for Claimant

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