

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

Ascension SE Wisconsin Hospital, Inc. vs. City of
Wauwatosa

**Electronic Filing
Notice**

Case No. 2023CV007398
Class Code: Money Judgment

FILED

10-02-2023

Anna Maria Hodges

Clerk of Circuit Court

2023CV007398

Honorable Kristy Yang-47

Branch 47

CITY OF WAUWATOSA
7725 WEST NORTH AVENUE
MILWAUKEE WI 53213

Received by

OCT 09 2023

City Clerk's Office

Case number 2023CV007398 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.

Parties who register as electronic parties can file, receive and view documents online through the court electronic filing website. A document filed electronically has the same legal effect as a document filed by traditional means. Electronic parties are responsible for serving non-electronic parties by traditional means.

You may also register as an electronic party by following the instructions found at <http://efiling.wicourts.gov/> and may withdraw as an electronic party at any time. There is a \$20.00 fee to register as an electronic party. This fee may be waived if you file a Petition for Waiver of Fees and Costs Affidavit of Indigency (CV-410A) and the court finds you are indigent under §814.29, Wisconsin Statutes.

If you are not represented by an attorney and would like to register an electronic party, you will need to enter the following code on the eFiling website while opting in as an electronic party.

Pro Se opt-in code: 7a4db9

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: October 2, 2023

Am 10/3

FILED
10-02-2023
Anna Maria Hodges
Clerk of Circuit Court
2023CV007398
Honorable Kristy Yang-47
Branch 47

STATE OF WISCONSIN
CIRCUIT COURT
MILWAUKEE COUNTY

ASCENSION SE WISCONSIN HOSPITAL, INC.
5000 West Chambers Street
Milwaukee, WI 53210,

Plaintiff,

v.

Case No. _____
Money Judgment - 30301

CITY OF WAUWATOSA
7725 West 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 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 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, Milwaukee, Wisconsin 53233, and to plaintiff's attorneys, Reinhart Boerner Van

Deuren s.c., whose address is 1000 North Water Street, Suite 1700, Milwaukee, Wisconsin 53202. 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 2nd day of October, 2023.

Reinhart Boerner Van Deuren s.c.
1000 North Water Street
Milwaukee, WI 53202
Telephone: 414-298-1000
Facsimile: 414-298-8097

Mailing Address:
P.O. Box 2965
Milwaukee, WI 53201-2965

Electronically signed by Kristina E. Somers

Kristina E. Somers
State Bar ID No. 1026028
Don M. Millis
State Bar ID No. 1015755
Sara Stellpflug Rapkin
State Bar ID No. 1076539
Attorneys for Plaintiff

FILED
10-02-2023
Anna Maria Hodges
Clerk of Circuit Court
2023CV007398
Honorable Kristy Yang-47
Branch 47

STATE OF WISCONSIN
CIRCUIT COURT
MILWAUKEE COUNTY

ASCENSION SE WISCONSIN HOSPITAL, INC.
5000 West Chambers Street
Milwaukee, WI 53210

Plaintiff,

v.

Case No. _____
Money Judgment - 30301

CITY OF WAUWATOSA
7725 West North Avenue
Wauwatosa, WI 53213

Defendant.

COMPLAINT

Plaintiff Ascension SE Wisconsin Hospital, Inc. (the "Plaintiff"), by its undersigned counsel, Reinhart Boerner Van Deuren s.c., for its Complaint against the defendant the 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 2023, plus statutory interest, with respect to a parcel of real property in the City (the "Property").

2. Plaintiff is the owner 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 West North Avenue, in the City.

4. The Property is located at 201 North Mayfair Road within the City and is identified in the City's records as Tax Parcel No. 411-9976-007.

JURISDICTION AND VENUE

5. The 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

2023 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 \$21.792240 per \$1,000 of assessed value of property.

9. For 2023, the City's assessor set the assessment of the Property at \$77,400,000.

10. Plaintiff 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).

11. By virtue of a hearing waiver pursuant to Wis. Stat. § 70.47(8m), the Board of Review sustained the 2023 assessment on the merits without a hearing. A true and correct copy of the approved Request for Waiver of Board of Review (BOR) Hearing is attached hereto as **Exhibit A** and is incorporated herein by reference.

12. Assuming the 2023 mill rate will be essentially the same as the 2022 mill rate, the City will impose tax on the Property in the approximate amount of \$1,686,719.

13. Plaintiff will timely pay the property taxes imposed by the City on the Property for 2023, or the required installments thereof.

CLAIM FOR RELIEF

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

2023 Assessment - Claim for Relief

15. The fair market value of the Property as of January 1, 2023 was no higher than \$17,688,000.

16. Based on the aggregate ratio of 84.3822235%, the correct assessment of the Property for 2023 is no higher than \$14,925,528.

17. Based on the tax rate of \$21.792240 per \$1,000 of assessed value, the correct amount of property tax on the Property for 2023 should be no higher than \$325,261.

18. The 2023 assessment of the Property, as set by the City's Assessor and compared with other commercial property in the City is 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 tax imposed on the Property for 2023 may be excessive in at least the amount of \$1,361,458.

19. 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.

20. Plaintiff is entitled to a refund of 2023 tax in the amount of at least \$1,361,458, 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 assessment of the Property for 2023 should be no higher than \$14,925,528;
- B. A determination that the correct tax on the Property for 2023 should be no higher than \$325,261;
- C. Judgment in the amount of \$1,361,458, 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 2nd day of October, 2023.

Reinhart Boerner Van Deuren s.c.
1000 North Water Street
Milwaukee, WI 53202
Telephone: 414-298-1000
Facsimile: 414-298-8097

Mailing Address:
P.O. Box 2965
Milwaukee, WI 53201-2965

Electronically signed by Kristina E. Somers

Kristina E. Somers
State Bar ID No. 1026028
Don M. Millis
State Bar ID No. 1015755
Sara Stellpflug Rapkin
State Bar ID No. 1076539
Attorneys for Plaintiff

RECEIVED

Case 2023CV007398

Document 2

Filed 10-02-2023

Page 7 of 7

By Misty Richey at 2:26 pm, Jun 05, 2023 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 Wauwatosa	County Milwaukee
Requestor's name Ascension SE Wisconsin Hospital, Inc.	Agent name (if applicable)* Reinhart Boerner Van Deuren s.c., including but not limited to, Kristina E. Somers, Don M. Mills, and Sara S. Rapkin
Requestor's mailing address 400 W. River Woods Parkway Glendale, WI 53212	Agent's mailing address 1000 N. Water Street, Suite 1700 Milwaukee, WI 53202
Requestor's telephone number () - <input type="checkbox"/> Land Line <input type="checkbox"/> Cell Phone	Agent's telephone number (414) 298 - 8249 <input checked="" type="checkbox"/> Land Line <input type="checkbox"/> Cell Phone
Requestor's email address	Agent's email address ksomers@reinhardtllaw.com

Property address 201 N. Mayfair Road	
Legal description or parcel number 411-9976-007	
Taxpayer's assessment as established by assessor - Value as determined due to waiving of BOR hearing \$ 77,400,000	
Property owner's opinion of value \$ 17,688,000	
Basis for request In litigation.	
Date Notice of Intent to Appear at BOR was given 5 - 31 - 2023	Date Objection Form was completed and submitted 06 - 05 - 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 within 60 days of the receipt of the notice of the waiving of the hearing.

Kristina E. Somers
Requestor's / Agent's Signature

***If agent, attach signed Agent Authorization Form, PA-105**

Decision

☒ Approved ☐ Denied

Reason _____

Samuel Stahle - Coi
Board of Review Chairperson's Signature

August 4, 2023
Date

☒ Taxpayer advised 8-4-23
Date

PA-813 (R. 10-16)

EXHIBIT**A**

Wisconsin Department of Revenue