

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

Milwaukee Regional Medical Center Thermal Service, Inc. **Electronic Filing**
vs. City of Wauwatosa **Notice**

Case No. 2023CV003888
Class Code: Money Judgment

FILED

05-26-2023

Anna Maria Hodges

Clerk of Circuit Court

2023CV003888

Honorable Frederick C
Rosa-35

Branch 35

CITY OF WAUWATOSA
7725 W. NORTH AVENUE
WAUWATOSA WI 53213

Received by

JUN 05 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: May 26, 2023

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Honorable Frederick C
Rosa-35
Branch 35

STATE OF WISCONSIN
MILWAUKEE COUNTY

CIRCUIT COURT

**MILWAUKEE REGIONAL MEDICAL CENTER
THERMAL SERVICE, INC.,**

a Wisconsin non-profit, non-stock corporation,
8700 Watertown Plank Road
Wauwatosa, WI 53226,

For Official Use:

Plaintiff,

Case No.

vs.

Classification:
30301 – Money Judgment

CITY OF WAUWATOSA,
a Wisconsin municipal corporation,
7725 W. North Avenue
Wauwatosa, WI 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 Milwaukee County Courthouse, 901 N. 9th Street, Milwaukee, Wisconsin 53233, and to Joseph A. Pickart of Husch Blackwell LLP, Plaintiff's attorney, whose address is 511 North Broadway Street, 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 26th day of May, 2023.

HUSCH BLACKWELL LLP
Attorneys for Plaintiff
Milwaukee Regional Medical Center
Thermal Service, Inc.

Electronically signed

By: **Joseph A. Pickart**

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STATE OF WISCONSIN
MILWAUKEE COUNTY

CIRCUIT COURT

**MILWAUKEE REGIONAL MEDICAL CENTER
THERMAL SERVICE, INC.,**

a Wisconsin non-profit, non-stock corporation,
8700 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.

COMPLAINT

Plaintiff, Milwaukee Regional Medical Center Thermal Service, Inc. (“MRMC Thermal”),
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 tax imposed upon MRMC Thermal for the 2022 tax year because the City’s
January 1, 2022 assessment was unlawful (i.e., subjects to tax property which is exempt).

PARTIES

2. Plaintiff is a Wisconsin non-profit, non-stock corporation, with its principal place
of business located at 8700 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

7. At all relevant times, MRMC Thermal owned the property located in the City at 9250 Watertown Plank Road, Tax Key No. 373-9999-027 (the "Subject Property").

8. MRMC Thermal is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code.

9. MRMC Thermal was created for the sole purpose of providing reliable utility support to non-profit organizations. It provides steam and chilled water solely to non-profit entities exempt from federal income tax and located entirely on the Milwaukee Regional Medical Center Campus (*e.g.*, Froedtert Memorial Lutheran Hospital, Children's Hospital of Wisconsin, Inc., The Medical College of Wisconsin, Versiti Blood Research Institute, and Kathy's House). MRMC Thermal's existence and creation were solely intended to provide reliable utility support to these non-profit organizations.

10. MRMC Thermal does not provide steam and chilled water to for-profit entities.

11. MRMC Thermal does not use the Subject Property in a way that generates unrelated business taxable income or for any commercial purposes.

12. For the 2022 tax year, the City partially assessed the Subject Property at \$5,823,000 including \$1,420,600 for land and \$4,402,400 for improvements thereon (the “2022 Assessment”) on the basis that the Subject Property was not exempt under Wis. Stat. § 70.11.

13. MRMC Thermal’s use of the Subject Property was exempt from property taxes under Wis. Stat. § 70.11(3), (4), (4m) and/or (25). Thus, the 2022 Assessment unlawfully included \$5,823,000 of property which qualified for exemption pursuant to Wis. Stat. § 70.11 (“Unlawful Assessment”).

14. In December 2022, the City issued a Real Estate Property Tax Bill based on the 2022 Assessment, which alleged a collective total property tax due of \$126,837.40.

15. MRMC Thermal has paid the tax alleged to be due for the 2022 tax year.

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

17. By letter dated January 19, 2023, MRMC Thermal timely filed a refund claim to recover unlawful taxes paid as a result of the Unlawful Assessment (“Refund Claim”), in an amount of no less than \$126,837.40, plus interest as provided by law.

18. The City failed to take action on the Refund Claim within 90 days of MRMC Thermal filing the Refund Claim.

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

20. MRMC Thermal has not contested the 2022 Assessment of the Subject Property under Wis. Stats. §§ 74.33 or 806.04.

CLAIM FOR RELIEF

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

22. The 2022 Assessment resulted in an Unlawful Assessment of the Subject Property, as defined in Wis. Stat. § 74.35, because the City's 2022 Assessment included exempt real property.

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

24. MRMC Thermal 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 taxes it paid to the City for the 2022 tax year, together with interest as provided by Wis. Stat. § 74.35(4).

WHEREFORE, MRMC Thermal respectfully requests that this Court:

- A. Declare, Find and/or Order the 2022 Assessment to be unlawful;
- B. Declare, Find and/or Order that MRMC Thermal paid more than its fair share of taxes due to the assessment of exempt property in 2022;
- C. Declare, Find and/or Order that MRMC Thermal is entitled to a refund of \$126,837.40, 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 MRMC Thermal and against the City in the amount of (i) not less than \$126,837.40 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 26th day of May, 2023.

HUSCH BLACKWELL LLP
Attorneys for Plaintiff
Milwaukee Regional Medical Center
Thermal Service, Inc.

Electronically signed

By: **Joseph A. Pickart**

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