

FILED
07-17-2024
Anna Maria Hodges
Clerk of Circuit Court
2024CV005746
Honorable David
Borowski-12
Branch 12

STATE OF WISCONSIN

CIRCUIT COURT

MILWAUKEE COUNTY

FROEDTERT THEDACARE HEALTH, INC.
F/K/A FROEDTERT HEALTH, INC.
9200 WEST WISCONSIN AVENUE
WAUWATOSA, WISCONSIN 53226,

PLAINTIFF,

CASE No.:
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 17th day of July, 2024.

von BRIESEN & ROPER, s.c.

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

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*Attorneys for Plaintiff, Froedtert Thedacare Health, Inc.
f/k/a Froedtert Health, Inc.*

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FROEDTERT THEDACARE HEALTH, INC.
F/K/A FROEDTERT HEALTH, INC.
9200 WEST WISCONSIN AVENUE
WAUWATOSA, WISCONSIN 53226,

PLAINTIFF,

CASE NO.:
MONEY JUDGMENT: 30301
(OVER \$10,000)

v.

CITY OF WAUWATOSA
7725 WEST NORTH AVENUE
WAUWATOSA, WISCONSIN 53213,

DEFENDANT.

COMPLAINT

Plaintiff, Froedtert Thedacare Health, Inc. f/k/a Froedtert Health, Inc. (“Froedtert”), by its undersigned counsel, von Briesen & Roper, s.c., for its Complaint against Defendant City of Wauwatosa (“City”), alleges as follows:

NATURE OF ACTION AND PARTIES

1. This action is brought under WIS. STAT. § 74.35 for a refund of unlawful real estate property taxes on certain real and personal properties in the City (the “Subject Properties”) which have been unlawfully taxed by the City for the year 2023, plus statutory interest.
2. Froedtert 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 Subject Properties 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 Subject Properties are located and identified on the City's records as follows:

10000 West Bluemound Road	Parcel 409-0059-002 – real property
10000 West Bluemound Road	Parcel 291-297-873 (Dermatology Clinic) – personal property
10000 West Bluemound Road	Parcel 291-297-875 (MOHS Surgery Clinic) – personal property

JURISDICTION AND VENUE

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

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

REAL PROPERTY BACKGROUND FACTS

10000 West Bluemound Road – 409-0059-002 – Real Property

8. For 2023, property in the City was assessed at 76.62% of its fair market value and tax was imposed on property in the City at the rate of \$21.404419 per \$1,000 of assessed value.

9. On February 28, 2023, Froedtert filed a Property Tax Exemption Request (PR-230) with the City, which was denied, at least in part.

10. In April of 2023, the assessment of the real property was set by the City Assessor at \$26,626,400 for tax year 2023.

11. In August, 2023, the Board of Review approved a stipulation to reduce the 2023 assessment to \$15,446,500.

12. Froedtert has timely asserted that the real property is partially exempt as a nonprofit hospital pursuant to Wis. Stat. §70.11(4m).

13. Based on the City's 2023 tax rate and the 2023 assessment of the real property, the City imposed a net tax of \$330,563.24.

14. On January 2, 2024, Froedtert paid the full amount of 2023 taxes on the real property in the amount of \$330,563.24.

15. On January 29, 2024, Froedtert personally served on the City Clerk a Claim for Unlawful Tax of the real property pursuant to Wis. Stat. §74.35 (the "Claim"), a copy of which is attached hereto and incorporated herein as **Exhibit A**.

16. The City had 90 days to notify Froedtert of its decision to either accept or deny the Claim. Because Froedtert has not received notification from the City and, as a matter of law, the Claim is deemed denied.

PERSONAL PROPERTY BACKGROUND FACTS

10000 West Bluemound Road (Dermatology Clinic) – Personal Property 297-873

17. For 2023, property in the City was assessed at 76.62% of its fair market value and tax was imposed on personal property in the City at the rate of \$21.404419 per \$1,000 of assessed value.

18. For 2023, a dooamage assessment of \$119,800 was imposed on the personal property by the City Assessor.

19. For 2023, Froedtert has asserted there should be no tax imposed on the personal property.

20. As a result of the dooamage assessment placed on the personal property for 2023, unlawful tax in the amount of \$2,564.24 was imposed on the personal property.

21. On January 2, 2024, Froedtert paid the full amount of 2023 taxes on the personal property in the amount of \$2,564.24.

22. On January 29, 2024, Froedtert personally served on the City Clerk a Claim for Unlawful Tax of the personal property pursuant to Wis. Stat. §74.35 (the "Claim"), a copy of which is attached hereto and incorporated herein as **Exhibit B**.

23. The City had 90 days to notify Froedtert of its decision to either accept or deny the Claim. Because Froedtert has not received notification from the City and, as a matter of law, the Claim is deemed denied.

10000 West Bluemound Road (MOHS Surgery Clinic) – Personal Property 297-875

24. For 2023, property in the City was assessed at 76.62% of its fair market value and tax was imposed on personal property in the City at the rate of \$21.404419 per \$1,000 of assessed value.

25. For 2023, a dooamage assessment of \$63,600 was imposed on the personal property by the City Assessor.

26. For 2023, Froedtert has asserted there should be no tax imposed on the personal property.

27. As a result of the dooamage assessment placed on the personal property for 2023, unlawful tax in the amount of \$1,361.32 was imposed on the personal property.

28. On January 2, 2024, Froedtert paid the full amount of 2023 taxes on the personal property in the amount of \$1,361.32.

29. On January 29, 2024, Froedtert personally served on the City Clerk a Claim for Unlawful Tax of the personal property pursuant to Wis. Stat. §74.35 (the “Claim”), a copy of which is attached hereto and incorporated herein as **Exhibit B**.

30. The City had 90 days to notify Froedtert of its decision to either accept or deny the Claim. Because Froedtert has not received notification from the City and, as a matter of law, the Claim is deemed denied.

REAL PROPERTY CLAIM FOR RELIEF

10000 West Bluemound Road – 409-0059-002 – Real Property

31. The allegations of paragraphs 1-30 are incorporated as if fully alleged herein.

32. The value of the real property as of January 1, 2023 is \$7,741,800 because it is partially exempt as a nonprofit hospital pursuant to Wis. Stat. §70.11(4m).

33. An unlawful assessment was imposed on the property for 2023 in the amount of \$7,704,700.

34. As a result of the unlawful 2023 assessment of the property, unlawful taxes have been imposed on the property for 2023 in the amount of \$164,854.51.

35. Froedtert is entitled to a refund of the 2023 net tax in the amount of \$164,854.51, or such amount as may be determined to be due to Froedtert, plus statutory interest.

PERSONAL PROPERTY CLAIM FOR RELIEF

10000 West Bluemound Road (Dermatology Clinic) – Personal Property 297-873

36. The allegations of paragraphs 1-35 are incorporated as if fully alleged herein.

37. The value of the personal property as of January 1, 2023 is \$0 on the grounds it is exempt.

38. As a result of the unlawful 2023 assessment of the property, unlawful taxes have been imposed on the property for 2023 in the amount of \$2,564.24.

39. Froedtert is entitled to a refund of the 2023 net tax in the amount of \$2,564.24, or such amount as may be determined to be due to Froedtert, plus statutory interest.

10000 West Bluemound Road (MOHS Surgery Clinic) – Personal Property 297-875

40. The allegations of paragraphs 1-39 are incorporated as if fully alleged herein.

41. The value of the personal property as of January 1, 2023 is \$0 on the grounds it is exempt.

42. As a result of the unlawful 2023 assessment of the property, unlawful taxes have been imposed on the property for 2023 in the amount of \$1,361.32

43. Froedtert is entitled to a refund of the 2023 net tax in the amount of \$1,361.32, 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 value of the real property should be \$7,741,800, on the grounds it is partially exempt.

B. For a determination that the Dermatology Clinic personal property should be \$0 on the grounds it is exempt.

C. For a determination that the MOHS Surgery Clinic personal property should be \$0 on the grounds it is exempt.

D. For judgment in favor of Froedtert and against the City in the amount of \$168,780.07 or such amount as may be determined to be due to Froedtert, plus statutory interest, as follows:

10000 West Bluemound Road – real property	\$164,854.51
10000 West Bluemound Road – Dermatology Clinic	\$2,564.24
10000 West Bluemound Road – MOHS Surgery Clinic	\$1,361.32

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

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

Dated at Milwaukee, Wisconsin this 17th day of July, 2024.

von BRIESEN & ROPER, s.c.

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

*Attorneys for Plaintiff, Froedtert Thedacare Health, Inc.
f/k/a Froedtert Health, Inc.*

Received by
JAN 29 2024
City Clerk's Office



TAGLaw International Lawyers

Barry R. White
Direct Telephone
414-270-2516
barry.white@vonbriesen.com

CLAIM FOR UNLAWFUL TAX (s.74.35, Wis. Stats.)

TO: Clerk, City of Wauwatosa
7725 West North Avenue
Wauwatosa, Wisconsin 53213

Now comes Froedtert Thedacare Health, Inc. f/k/a Froedtert Health, Inc. ("Claimant"), owner of real property Tax Key No. 409-0059-002 located at 10000 West Bluemound Road, Wauwatosa, Wisconsin (the "Property"), by Claimant's attorneys, von Briesen & Roper, s.c., and files this Claim for Unlawful Tax against the City of Wauwatosa ("City") pursuant to Wis. Stat. sec 74.35.

1. Claimant is the owner of the Property, which is located at 10000 West Bluemound Road in the City.
2. For 2023, property in the City was assessed at 76.62% of its fair market value as of January 1, 2023 and was taxed at \$21.404419 per \$1,000 of assessed value.
3. The 2023 assessment of the Property was set by the City Assessor at \$26,626,400.
4. On, February 28, 2023, the Claimant filed a Property Tax Exemption Request (PR-230) with the City, which was denied, at least in part.
5. In August, 2023, the Board of Review stipulated to reduce the 2023 assessment to \$15,446,500.
6. Based on the 2023 assessment as set by the City, the City imposed a net tax of \$330,563.24 on the Property.
7. The value of the Property for 2023 is \$7,741,800 because it is partially exempt as a nonprofit hospital pursuant to sec. 70.11(4m)(a), Wis. Stats. The assessment of the property based on 76.62% of its fair market value is \$5,931,767.
8. The maximum 2023 property tax on the Property is \$126,966.03.
9. As a result of the unlawful assessment of the Property for 2023, unlawful tax in at least the amount of \$203,597.21 was imposed on the Property.

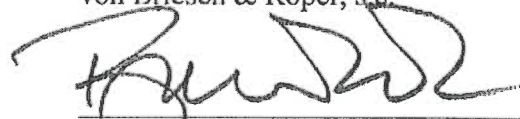
EXHIBIT A

10. On January 2, 2024, Claimant paid the full amount of 2023 taxes on the Property in the amount of \$330,563.24.

11. Wherefore, Claimant requests that the Common Council cancel the unlawful 2023 tax assessment on the Property, and because of the unlawful tax imposed and paid on the Property for 2023, Claimant requests refund of said unlawful tax of \$203,597.21.

Dated at Milwaukee, Wisconsin, this 25th day of January, 2024.

von Briesen & Roper, s.c.

A handwritten signature in black ink, appearing to read 'Alan Marcuvitz', written over a horizontal line.

Alan Marcuvitz
Katie L. Bireley
Barry R. White

Received by
JAN 23 2024
City Clerk's Office

von Briesen

von Briesen & Roper, s.c. | Attorneys at Law

TAGLaw International Lawyers

Barry R. White
Direct Telephone
414-270-2516

barry.white@vonbriesen.com

CLAIM FOR UNLAWFUL TAX (sec. 74.35, Wis. Stats.)

TO: Clerk, City of Wauwatosa
7725 West North Avenue
Wauwatosa, Wisconsin 53213

Now comes Froedtert Thedacare Health, Inc. f/k/a Froedtert Health, Inc. ("Claimant"), owner of personal property located at 10000 West Bluemound Road in Wauwatosa, Wisconsin (the "Personal Property"), by Claimant's attorneys, von Briesen & Roper, s.c., and files this Claim for Unlawful Tax against the City of Wauwatosa ("City") pursuant to Wis. Stat. sec 74.35.

1. Claimant is the owner of the following located Personal Property:

10000 West Bluemound Road – tax key 291-297-873 (Dermatology Clinic)
10000 West Bluemound Road – tax key 291-297-875 (MOHS Surgery Clinic)

2. For 2023, personal property in the City was assessed at 76.62% of its fair market value as of January 1, 2023 and was taxed at \$21,404,419 per \$1,000 of assessed value.

10000 West Bluemound Road – 297-873 (Dermatology Clinic)

3. A 2023 doomage assessment was imposed on Personal Property by the City assessor at \$119,800.

4. Based on the 2023 doomage assessment of \$119,800 as set by the City, the City imposed a net tax of \$2,564.24.

5. The assessable value of the Personal Property for 2023 is \$0 on the grounds it is exempt pursuant to Wis. Stats., sec. 70.11(4m).

6. For 2023, there should be no tax imposed on the Personal Property.

7. As a result of the doomage assessment placed on the Personal Property for 2023, unlawful tax in the amount of \$2,564.24 was imposed on the Personal Property.

EXHIBIT B

8. On January 2, 2024, Claimant paid the full amount of 2023 taxes on the Personal Property in the amount of \$2,564.24.

9. The total amount of this claim for 2023 is \$2,564.24.

10000 West Bluemound Road –297-875 (MOHS Surgery Clinic)

10. A 2023 dooamage assessment was imposed on Personal Property by the City assessor at \$63,600.

11. Based on the 2023 dooamage assessment of \$63,600 as set by the City, the City imposed a net tax of \$1,361.32.

12. The assessable value of the Personal Property for 2023 is \$0 on the grounds it is exempt pursuant to Wis. Stats., sec. 70.11(4m).

13. For 2023, there should be no tax imposed on the Personal Property.

14. As a result of the dooamage assessment of the Personal Property for 2023, unlawful tax in the amount of \$1,361.32 was imposed on the Personal Property.

15. On January 2, 2024, Claimant paid the full amount of 2023 taxes on the Personal Property in the amount of \$1,361.32.

16. The total amount of this claim for 2023 is \$1,361.32.

Unlawful Claim

17. The total amount of the above Personal Property claims are as follows:

\$2,564.24	10000 West Bluemound Road – 297-873 (Dermatology Clinic)
<u>\$1,361.32</u>	10000 West Bluemound Road –297-875 (MOHS Surgery Clinic)
\$3,925.56	TOTAL

18. Wherefore, Claimant requests that the Common Council cancel the unlawful 2023 tax assessment on the Personal Property, and because of the unlawful tax imposed on the Personal Property for 2023, Claimant requests refund of said unlawful tax of \$3,925.56.

Dated at Milwaukee, Wisconsin, this 25th day of January, 2024.

von Briesen & Roper, s.c.

A handwritten signature in black ink, appearing to read 'Alan Marcuvitz', written over a horizontal line.

Alan Marcuvitz
Barry R. White
Katie L. Bireley

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