

Received by

MAR 26 2026

City Clerk's Office

STATE OF WISCONSIN : CIRCUIT COURT : MILWAUKEE COUNTY

FILED
03-24-2026
Anna Maria Hodges
Clerk of Circuit Court
2026CV002685
Honorable William S.
Pocan-26
Branch 26

PHOENIX WAUWATOSA II INDUSTRIAL INVESTORS LLC
401 E. Kilbourn Ave. Suite 201
Milwaukee, WI 53202

Plaintiff,

v.

CASE NO:
Case Code: 30301

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

and

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

Defendants.

SUMMONS

THE STATE OF WISCONSIN

To each person 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 forty-five (45) 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 attached Complaint.

The Court may reject or disregard an answer that does not follow statutory requirements. The

answer must be sent or delivered to the Court, whose address is the Milwaukee County Courthouse located at 901 North 9th Street, Milwaukee, WI 53202, and to von Briesen & Roper, s.c., attorneys for the Plaintiff, whose address is 411 E. Wisconsin Ave. Suite 1000, Milwaukee, WI 53202. You may have an attorney help or represent you.

If you do not provide a proper response within forty-five (45) 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 23rd day of March, 2026.

von Briesen & Roper, s.c.
Attorneys for the Plaintiff

Electronically signed by Alan Marcuvitz
Alan Marcuvitz, SBN: 1007942
Ryan R. Simatic, SBN: 1101608

P.O. ADDRESS:

411 E. Wisconsin Avenue, Suite 1000
Milwaukee, Wisconsin 53202
PH: 414-287-1401 (AM)
414-287-1365 (RS)
alan.marcuvitz@vonbriesen.com
ryan.simatic@vonbriesen.com

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

Defendants.

COMPLAINT

NOW COMES Plaintiff, Phoenix Wauwatosa II Industrial Investors LLC (“Phoenix”), by its attorneys, von Briesen & Roper, s.c., and as and for its complaint, alleges the following:

NATURE OF ACTION AND PARTIES

1. This action is brought pursuant to Article I, Section 1 of the Wisconsin Constitution because the City of Wauwatosa Board of Review failed to provide procedural due process rights to the Plaintiff as required by Wis. Stat. § 70.47(3)(a)5 and § 70.47(3)(ah), thereby depriving the Plaintiff any meaningful opportunity to be heard.

2. This action is also brought pursuant to Wis. Stat. § 74.37(3)(d) for a refund of excessive property taxes imposed on real property within the City of Wauwatosa, which has been excessively assessed by the City for the tax year 2025, plus statutory interest.
3. Phoenix is a Foreign Limited Liability Company registered with the State of Wisconsin with its local principal office located at 401 E. Kilbourn Avenue, Suite 201, Milwaukee, WI 53202.
4. Phoenix has been responsible for payment of the property taxes for the property at 3300 North 124th Street in the City of Wauwatosa (the “Subject Property”) since the 2021 tax year, following its acquisition.
5. The City of Wauwatosa (“the City”) is a municipal corporation, authorized under and created by the laws of the State of Wisconsin. The City’s primary offices are located at 7725 W. North Avenue, in the City of Wauwatosa, WI 53213.
6. The City of Wauwatosa Board of Review (“BOR”) is a quasi-judicial body created pursuant to Wis. Stat. § 70.46 for the purpose of effectuating Wis. Stat. § 70.47 and holds its meetings at 7705 W. North Avenue, in the City of Wauwatosa, WI 53213.

JURISDICTION AND VENUE

7. This Court has personal jurisdiction over the City and the BOR pursuant to Wis. Stat. § 801.05(1).
8. Venue is appropriate in Milwaukee County pursuant to Wis. Stat. § 801.50(2)(a).

FACTUAL CIRCUMSTANCES OF THIS ACTION

9. Phoenix received a mailed notice titled “2025 Notice of Changed Assessment”, (“Notice”), dated July 18, 2025, which informed Phoenix that the Subject Property’s assessment was changing from the previous assessment of \$10,039,400 in 2024 to a new assessment of

\$45,300,000 in 2025. This Notice stated that the Board of Review would hold its initial statutory meeting on August 18, 2025 at 10:00 AM in the Common Council Chambers. The Notice further advised Phoenix that to “file a formal appeal,” Phoenix must provide notice of intent to file an objection “at least 48 hours before the Board of Review begins- this deadline is 10:00 AM on August 16, 2025.” In addition, an objector must file objection form PA-115 with the clerk of the Board of Review “no later than the first two hours of the Board’s first scheduled meeting (August 18, 2025).” See Phoenix Exhibit 1.

10. On August 12, 2025, Phoenix submitted both the necessary Notice of Intent to Object and formal Objection Form PA-115 (the “Objection”) for the Subject Property to the Clerk of the BOR, Zach Kessler. See Phoenix Exhibit 2 and 3.
11. Both the Notice of Intent to Object and Objection were acknowledged as received on August 12, 2025, by BOR Clerk Zach Kessler. See Phoenix Exhibits 2 and 3.
12. Phoenix received no further or additional communication of any kind or content from Defendants, until it received a letter from Defendants dated September 2, 2025. See Phoenix Exhibit 4.
13. The September 2, 2025 Letter from Defendants states, in part:

“... on August 28, 2025 the Wauwatosa Board of Review at their Initial Meeting of the 2025 Board of Review decided to dismiss the assessment objection for 3300 N. 124th Street, Wauwatosa, WI 53222 (Tax Key # 258-0003-004), due to the failure by the owner, or the owner’s authorized representative, to provide the City Assessor’s office with income and expense information pursuant to the requirements of the Wauwatosa Board of Review Rules and Wisconsin State Statute 70.47(7)(af).”

This letter further states that, “The Assessor appeared before the Board of Review at the August 28, 2025 meeting and documented the requests for the information and the failure to provide the requested information to the Assessor.” See Phoenix Exhibit 4.

14. At no time was Phoenix notified that there was a change of the original statutory first meeting for the BOR from August 18 to August 28, 2025.
15. At no time was Phoenix notified that there was to be a hearing on August 28, 2025, or at any other time, related to its Objection.
16. Due to the dismissal of the Objection, the property assessment increased by 451% from the 2024 assessment of \$10,039,400 to a 2025 assessment of \$45,300,000 without any opportunity for Phoenix to be heard or for recourse or challenge.
17. The 2025 assessment has resulted in a substantial increase in the property tax levied against the Subject Property.

CLAIM FOR RELIEF 1: DUE PROCESS VIOLATION

18. The allegations of paragraphs 1-17 are incorporated as if fully realleged herein.
19. Phoenix received no notice of any hearing on August 28th, 2025, at which time both the Board of Review and the City's Assessor were present and the City's Assessor appeared and presented argument as to why the objection by Phoenix should be dismissed.
20. The lack of any notice and ex-parte presentation of evidence to the BOR are procedural defects that violate Wis. Stat. § 70.47.
21. The City's procedural defects have violated Phoenix's rights under Article I, Section 1 of the Wisconsin Constitution, because the City of Wauwatosa Board of Review failed to provide procedural due process rights to the Plaintiff as required by Wis. Stat. § 70.47(3)(a)5 and § 70.47(3)(ah).
22. Phoenix should be allowed to proceed under Wis. Stat § 74.37, on its claim of excessive assessment, due to the due process violations by the City and BOR.

CLAIM FOR RELIEF 2: EXCESSIVE ASSESSMENT

23. The allegations of paragraphs 1-17 are incorporated as if fully realleged herein.
24. The value of the Subject Property as of January 1, 2025, was no higher than \$30,350,000, which value was derived from a contemporaneous appraisal of the Subject Property.
25. The total net property tax levied against the Subject Property for 2025 was \$806,215.58.
26. The correct total net property tax on the Subject Property for 2025 should be no higher than \$540,198.25.
27. As a result of the excessive assessment of the Subject Property for 2025, excessive tax in the amount of at least \$266,017.33 was levied on the Subject Property.
28. Phoenix has served a Claim of Excessive Assessment on the City on December 17, 2025 after paying the required first installment of billed taxes on the Subject Property. See Phoenix Exhibit 5.
29. No timely response has been made by the City to the Claim of Excessive Assessment referenced in paragraph 28 and the City has therefore denied the Claim.
30. Phoenix has paid the required second installment of billed taxes on the Subject Property.
31. Upon information and belief, the 2025 assessment of the Subject Property is not uniform with the 2025 assessment of similar properties in the City, and therefore violates the Uniformity Clause of the Wisconsin Constitution.
32. Phoenix is entitled to a refund of 2025 taxes in the amount of \$266,017.33, or such other amount as may be determined to be due to Phoenix, plus statutory interest.

CAUSE OF ACTION 3: WIS. STAT. § 70.47(7)(af) IS UNCONSTITUTIONAL AS APPLIED TO PHOENIX

33. The allegations of paragraphs 1-17 are incorporated as if fully realleged herein.

34. Wis. Stat. 70.47(7)(af) states that “no person may appear before the board of review, testify to the board of review, testify to the board by telephone or object to a valuation; if that valuation was made by the assessor or the objector using the income method; unless no later than 7 days before the first meeting of the board of review the person supplies to the assessor all of the information about income and expenses, as specified in the manual under s. 73.03 (2a), that the assessor requests.” Wis. Stat. § 70.47(7)(af).
35. Phoenix provided the City and BOR with the requisite appeal and notice documents to satisfy all requirements to be heard as to its Objection.
36. The Defendants denied any hearing to Phoenix on the grounds that Phoenix had failed to provide “all of the information about income and expense” ... “ that the assessor requests”, pursuant to Wis. Stat. § 70.47(7)(af). Phoenix Exhibit 4.
37. The City’s use of Wis. Stat. § 70.47(7)(af) as applied to Phoenix is unconstitutional because it requires Phoenix to surrender its Fourth Amendment protections of its “persons, houses, papers, and effects” in order to receive due process and be heard as to the timely filed objection to the real property assessment. U.S. Const. Amend. IV.; Article I, § 11 of Wis. Const. *Emphasis Added.*

PRAYER FOR RELIEF

WHEREFORE, Phoenix respectfully requests that this Court:

- A. Issue a determination that the Defendants violated the due process rights of Phoenix on August 28, 2025, by failing to provide notice of the substantive hearing held on that date, failing to provide an opportunity for Phoenix to be heard or present evidence, and by allowing testimony from the adverse party, resulting in dismissal of the Objection.

- B. Issue a declaratory judgment pursuant to Wis. Stat. § 806.04(2), directing that the due process violations by the Defendants City and BOR constitute a “waiver of hearing” of the Phoenix duly filed Objection, pursuant to Wis. Stat. § 70.47(8m); and
- C. Issue a declaratory judgment that Phoenix may proceed on its claim of excessive assessment pursuant to Wis. Stat. § 74.37.
- D. Issue a determination that Wis. Stat. § 70.47(7)(af) is unconstitutional as applied to Phoenix because it deprives Phoenix due process for exercising their Fourth Amendment rights.
- E. Order a refund be paid by City to Phoenix of the excessive taxes in the amount of \$266,017.33, plus interest.
- F. Allow Phoenix to recover its attorney’s fees and costs of this action.
- G. Order any other equitable relief the Court deems appropriate.

Dated this 23rd Day of March, 2026.

von Briesen & Roper, s.c.
Attorneys for the Plaintiff

Electronically signed by Alan Marcuvitz
Alan Marcuvitz, SBN: 1007942
Ryan R. Simatic, SBN: 1101608

P.O. ADDRESS:

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Phoenix Exhibit 1

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CITY OF WAUWATOSA, WI
2025 NOTICE OF CHANGED ASSESSMENT
THIS IS NOT A TAX BILL

Under state law (Sec.70.365, Wis. Stats.), your property assessment for the current year is listed below.

Property Owner

PHOENIX WAUWATOSA II INDUSTRIAL INVESTORS LLC
PHOENIX WAUWATOSA II INDUSTRIAL INVESTORS LLC
401 E KILBOURN AVE STE 201

MILWAUKEE, WI 53202

Parcel Information

Parcel #: 2580003004
Address: 3300 N 124TH ST
WAUWATOSA WI 53222
Legal Description: CERTIFIED
SURVEY MAP NO 7845 NW & SW 1/4
SEC 7-7-21 LOT 1

2007

07/18/2025
General Information

Open Book - July 18th, 2025- August 15th, 2025
Mon-Wed: 9-4pm, Thurs: 9-6pm; Fri: 9-4pm
Board of Review - August 18th, 2025 10:00AM
Meeting Location - Common Council Chambers
7725 W North Avenue

Contact Information

Assessor - Sarah Tyrrell
(414)479-8969, tassessor@wauwatosa.net
Municipal (BOR) Clerk- Zachary Kessler
(414)479-8917, boardofreview@wauwatosa.net

Assessment Change

	General Property		PRC/MFL
YEAR	TOTAL VALUE		
2025	\$45,300,000		
2024	\$10,039,400		
Total Assessment Change		\$35,260,600	
Reason for Change(s)			
Change reason	Revaluation		
Note: If an Agricultural Land Conversion Change Form PR-298 is enclosed, you must pay a conversion charge under state law (sec.74.485, Wis. Stats).			

Assessment Information

Wisconsin law requires that all taxable property (except agricultural, agricultural forest and undeveloped) is assessed at full value as of January 1 each year. Assessments at a percentage of full market value are acceptable when applied uniformly. To determine if your assessment is fair, analyze it in relation to full market value. This is done by dividing your assessment by the general level of assessment for your municipality. Under Wisconsin law, generally, the assessor may not change the assessment of property based solely on the recent arm's length sale of the property without adjusting the assessed value of comparable properties in the same market area. For information on the assessment of properties that have recently sold, visit the Internet site of the Department of Revenue at <https://www.revenue.wi.gov/pages.ERETR/data-home.aspx>.

To appeal your assessment

First discuss with your local assessor - Minor errors and misunderstandings can often be corrected by the assessor instead of making a formal appeal.

To File a Formal Appeal - give notice of your intent (written or oral) by contacting the Board of Review Clerk, at least 48 hours before the Board of Review begins - this deadline is 10:00am August 18th, 2025. In addition, you must complete the State prescribed objection form (PA-115 <https://www.revenue.wi.gov/DORForms/pa-115af.pdf>) and file it with the clerk of the Board of Review no later than the first two hours of the Board's first scheduled meeting (August 18th, 2025).

For more information on the appeal process:

- Contact your Municipal Clerk listed above
- Review the "Property Assessment Appeal Guide for Wisconsin Real Property Owners" (<https://www.revenue.wi.gov/DOR%20Publications/pb055.pdf>)
- Another resource is "Guide for Property Owners" (<https://www.revenue.wi.gov/DOR%20Publications/pb060.pdf>)

SEE BACK OF THIS FORM FOR MORE INFORMATION

Office of the City Assessor

City of Wauwatosa

Phone: (414) 479-8969

Email: tassessor@wauwatosa.net

Your 2025 Notice of Assessment is enclosed. Assessment values are as of January 1, 2025 and will become the assessed value of your property for taxation purposes. **If you do not have any questions about your new assessment, no further action is needed from you.**

If you have questions about your property value or think there may be an error, please fill out our Open Book Request Form at Wauwatosa.net/reval. After reviewing your form, an Appraiser will contact you and may work with you to schedule a discussion during Open Book Period. In many cases, questions or concerns can be resolved by email (no appointment). This flexible approach avoids long waits and unnecessary appointments during Open Book Period.

Open Book Period

Open Book Period is designated time for you to discuss your assessment with the City Assessor's Office. We ask that you start by submitting an Open Book Request Form at Wauwatosa.net/reval. This allows our staff to look at your property record and respond directly to your questions. If needed, they'll set up a time to talk with you by phone or in person.

- **Dates:** Friday, July 18 – Friday, August 15, 2025.
- **Hours:** 9 a.m. – 4 p.m. Mondays, Tuesdays, Wednesdays, and Fridays and 9 a.m. – 6 p.m. on Thursdays.

Submitting an Appeal to the Board of Review

If you find that you disagree with your assessment after Open Book Period, you have the right to further appeal to the Board of Review. To submit an appeal:

1. File a Notice of Intent or Objection Form with the City Clerk by 10 a.m. on Sat., August 16.
 - a. If you file a Notice of Intent, you must provide a signed Objection Form to the City Clerk's Office before the Board of Review's first meeting concludes. The first meeting begins at 10 a.m. on Monday, August 18.
 - b. The City Clerk's Office will be open from 8-10 a.m. on Saturday, August 16.

2. The City Clerk's Office will notify you once the Board of Review has scheduled your hearing.

Note: The Board of Review can only act upon evidence given in the form of sworn oral testimony.

More Resources

- **Visit wauwatosa.net/property:** Property assessments, sales information, and property characteristics.
- **Visit wauwatosa.net/assessor:** Learn about the city-wide revaluation process.



Phoenix Exhibit 2**John Fuchs**

From: Zachary Kessler <zkessler@wauwatosa.net>
Sent: Tuesday, August 12, 2025 1:14 PM
To: John Fuchs; Board of Review
Cc: John Fuchs
Subject: RE: [External] FW: Notice of Intent

Hello -

Your intent to appeal has been received.

The [PA-115A form](#) can be found here. The Wisconsin Department of Revenue Guide for Property Owners can be found [here](#).

Thank you,

Zach Kessler, MPA
Director of Municipal Services | City of Wauwatosa
7725 W North Ave | Wauwatosa, WI 53213
Desk: (414) 479-8919 | Office: (414) 479-8917
www.wauwatosa.net

From: John Fuchs <fuchs@FDBLAW.COM>
Sent: Tuesday, August 12, 2025 11:50 AM
To: tassessor <tassessor@wauwatosa.net>; Board of Review <boardofreview@wauwatosa.net>
Cc: John Fuchs <jfuchs@phoenixinvestors.com>; John Fuchs <fuchs@FDBLAW.COM>
Subject: [External] FW: Notice of Intent

Attention:
Assessor Sarah Tyrrell
Clerk Zachary Kessler

Please acknowledge receipt of the attached. I will file the PA 115 shortly. As this hearing will be longer than typically occurs as to a single family home or similar lesser value property we will be requesting the matter be set for hearing to a new date. Be advised I am currently in-house counsel with Phoenix Investors 401 E. Kilbourn Avenue Suite 201 Milwaukee, WI 53202.

John F. Fuchs
Fuchs & Boyle, S.C.
13500 Watertown Plank Road
Suite 100
Elm Grove, WI 53122

414-257-1800
414-257-1510 (fax)
414-248-4040 (cell)
fuchs@fdblaw.com (email)



CITY OF WAUWATOSA

Notice of Intent to File Objection with 2025 Board of Review

I, Attorney John F. Fuchs, as the property owner or agent for PhoenixWauwatosa II IndustrialInvestors LLC hereby give notice of intent to file an objection on the assessment for the following property:

Property Address: 3300 N. 124th Street, Wauwatosa, WI

Tax Key #: 2580003004

This notice of intent is being filed (please mark one):

- At least 48 hours before the Board's first scheduled meeting after the assessment roll is complete
During the first two hours of the Board's first scheduled meeting (complete Section A below)
Up to the end of the fifth day of the session, or up to the end of the final day of the session, if the session is less than 5 days (complete Section B below)

Filing of this form does not relieve the objector of the requirement of timely filing of a fully completed written objection on the proper form with the City Clerk.

Signature: John F. Fuchs Date: August 12, 2025

Received by: Date:

Section A: The Board of Review shall grant a waiver of the 48-hour notice of intent to file an objection if the property owner who does not meet the notice requirement appears before the Board during the first two hours of the meeting, SHOWS GOOD CAUSE FOR FAILURE TO MEET THE 48-HOUR NOTICE REQUIREMENT, and files a written objection. My good cause is as follows:

Empty rectangular box for Section A good cause details.

Section B: The Board of Review may waive all notice requirements and hear the objection even if the property owner fails to provide written or oral notice of intent to object 48 hours before the first scheduled meeting, and fails to request a waiver of the notice requirement during the first two hours of the meeting if the property owner appears before the Board at any time up to the end of the fifth day of the session, or up to the final day of the session if the session is less than five days, and FILES A WRITTEN OBJECTION AND PROVIDES EVIDENCE OF EXTRAORDINARY CIRCUMSTANCES. Proof of my extraordinary circumstances are as follows:

Empty rectangular box for Section B extraordinary circumstances details.

A WRITTEN OBJECTION ON THE PROPER FORM MUST BE PROPERLY FILED WITH THE CITY CLERK. 7/25

Phoenix Exhibit 3**John Fuchs**

From: Zachary Kessler <zkessler@wauwatosa.net>
Sent: Tuesday, August 12, 2025 2:56 PM
To: John Fuchs
Cc: Board of Review
Subject: RE: [External] RE: Objection PIN 2580003004 3300 N. 124 the street

Hello –

This has been received.

Thank you,

Zach Kessler, MPA
Director of Municipal Services | City of Wauwatosa
7725 W North Ave | Wauwatosa, WI 53213
Desk: (414) 479-8919 | Office: (414) 479-8917
www.wauwatosa.net

From: John Fuchs <fuchs@FDBLAW.COM>
Sent: Tuesday, August 12, 2025 2:44 PM
To: tassessor <tassessor@wauwatosa.net>; Board of Review <boardofreview@wauwatosa.net>
Cc: John Fuchs <fuchs@FDBLAW.COM>
Subject: [External] RE: Objection PIN 2580003004 3300 N. 124 the street

Attached.

John F. Fuchs
Fuchs & Boyle, S.C.
13500 Watertown Plank Road
Suite 100
Elm Grove, WI 53122
414-257-1800
414-257-1510 (fax)
414-248-4040 (cell)
fuchs@fdblaw.com (email)

From: John Fuchs
Sent: Tuesday, August 12, 2025 2:42 PM
To: tassessor@wauwatosa.net; boardofreview@wauwatosa.net
Cc: John Fuchs <fuchs@fdblaw.com>
Subject: Objection PIN 2580003004 3300 N. 124 the street

Objection to assessment.

John F. Fuchs
Fuchs & Boyle, S.C.

13500 Watertown Plank Road
Suite 100
Elm Grove, WI 53122
414-257-1800
414-257-1510 (fax)
414-248-4040 (cell)
fuchs@fdblaw.com (email)

Objection to Real Property Assessment

To file an appeal on your property assessment, you must provide the Board of Review (BOR) clerk written or oral notice of your intent, under state law (sec. 70.42(7)(a), Wis. Stats.). You must also complete this entire form and submit it to your municipal clerk. To review the best evidence of property value, see the Wisconsin Department of Revenue's [Guide for Property Owners](#).

Complete all sections:

Section 1: Property Owner / Agent Information				* If agent, submit written authorization (Form PA-105) with this form					
Property owner name (on changed assessment notice) Phoenix Kauwatoa II Industrial Investors LLC				Agent name (if applicable) John F. Fuchs, attorney (PA-105 has been filed)					
Owner mailing address 401 E. Kilbourn Avenue suite 201				Agent mailing address same (except phone number of agent below)					
City Milwaukee	State WI	Zip 53202	City	State	Zip				
Owner phone (414) 982-4810	Email	Owner phone (414) 248-4040	Email Fuchs@Edblaw.com						
Section 2: Assessment Information and Opinion of Value									
Property address 3300 N 124th Street				Legal description or parcel no. (on changed assessment notice) 2580003004					
City Wauwatosa	State WI	Zip 53222							
Assessment shown on notice - Total 45300000				Your opinion of assessed value - Total 10039400					

If this property contains non-market value class acreage, provide your opinion of the taxable value breakdown:

Statutory Class	Acres	\$ Per Acre	Full Taxable Value
Residential total market value			
Commercial total market value			
Agricultural classification: # of tillable acres		@ \$ acre use value	
# of pasture acres		@ \$ acre use value	
# of specialty acres		@ \$ acre use value	
Undeveloped classification # of acres		@ \$ acre @ 50% of market value	
Agricultural forest classification # of acres		@ \$ acre @ 50% of market value	
Forest classification # of acres		@ \$ acre @ market value	
Class 7 "Other" total market value		market value	
Managed forest land acres		@ \$ acre @ 50% of market value	
Managed forest land acres		@ \$ acre @ market value	

Section 3: Reason for Objection and Basis of Estimate	
Reason(s) for your objection: (Attach additional sheets if needed) Property has incurred vacancies since the 2024 value and is worth less than valued by assessor in 2024	Basis for your opinion of assessed value: (Attach additional sheets if needed) to be supplemented in advance of hearing

Section 4: Other Property Information

A. Within the last 10 years, did you acquire the property? Yes No
If Yes, provide acquisition price \$ 24000000 Date - -2022 Purchase Trade Gift Inheritance

B. Within the last 10 years, did you change this property (ex: remodel, addition)? Yes No
If Yes, describe
Date of changes (mm-dd-yyyy) Cost of changes \$ Does this cost include the value of all labor (including your own)? Yes No

C. Within the last five years, was this property listed/offered for sale? Yes No
If Yes, how long was the property listed (provide dates) (mm-dd-yyyy) to (mm-dd-yyyy)
Asking price \$ List all offers received

D. Within the last five years, was this property appraised? Yes No
If Yes, provide: Date (mm-dd-yyyy) Value Purpose of appraisal
If this property had more than one appraisal, provide the requested information for each appraisal.

Section 5: BOR Hearing Information

A. If you are requesting that a BOR member(s) be removed from your hearing, provide the name(s):
Note: This does not apply in first or second class cities.

B. Provide a reasonable estimate of the amount of time you need at the hearing 300 minutes.

Property owner or Agent signature John F. Fuchs	Date (mm-dd-yyyy) 08 - 12 - 2024
--	-------------------------------------

Phoenix Exhibit 4

CITY OF WAUWATOSA
7725 WEST NORTH AVENUE
WAUWATOSA, WI 53213
Telephone: (414) 479-8917

September 2, 2025

Phoenix Wauwatosa II Industrial Investors LLC
401 E. Kilbourn Avenue, Suite 201
Milwaukee, WI 53202

Re: 3300 N. 124th Street, Wauwatosa, WI 53222 (Tax Key # 258-0003-004)

Dear property owner,

This letter is to inform you that on August 28, 2025 the Wauwatosa Board of Review at their Initial Meeting of the 2025 Board of Review decided to dismiss the assessment objection for 3300 N. 124th Street, Wauwatosa, WI 53222 (Tax Key # 258-0003-004), due to the failure by the owner, or the owner's authorized representative, to provide the City Assessor's office with income and expense information pursuant to the requirements of the Wauwatosa Board of Review Rules and Wisconsin State Statute 70.47(7)(af). That statute provides: "No person may appear before the Board of Review, testify to the Board by telephone, or object to a valuation if that valuation was made by the Assessor or the objector using the income method; unless no later than 7 days before the first meeting of the Board of Review the person supplies to the Assessor all of the information about income and expenses, as specified in the manual under s. 73.03 (2), that the Assessor requests."

The Assessor appeared before the Board of Review at the August 28, 2025, meeting and documented the request for the information and the failure to provide the requested information to the Assessor.

The Board's decision is not a decision on the merits of the valuation on the subject property, and there will not be a Notice of Determination pursuant to ss. 70.47.(12).

Sincerely,

Zachary N. Kessler
Secretary to the Board

Phoenix Exhibit 5

Received by

DEC 17 2025

City Clerk's Office

von Briesen

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

TAGLaw International Lawyers

Alan H. Marcovitz

Direct Telephone

414-287-1401

alan.marcovitz@vonbriesen.com

CLAIM FOR EXCESSIVE ASSESSMENT

TO: Clerk, City of Wauwatosa
7725 W. North Ave.
Wauwatosa, Wisconsin 53213

Now comes Phoenix Wauwatosa II Industrial Investors LLC ("Claimant") owner of parcel 2580003004 (the "Property") in the City of Wauwatosa, Wisconsin, by Claimant's attorneys, von Briesen & Roper, s.c., and files this Claim for Excessive Assessment against the City of Wauwatosa (the "City"), pursuant to Wis. Stat. § 74.37.

1. Claimant is the owner of Property located at 3300 N. 124th Street, Wauwatosa, Wisconsin.
2. For 2025, property in the City was assessed at 100.71% of its fair market value as of January 1, 2025, and was taxed at \$17.798954 per \$1,000 of assessed value
3. The 2025 assessment of the Property was set by the City at \$45,300,00. Timely objection was filed on August 12, 2025, and acknowledged by the City.
4. By letter dated September 2, 2025, and subsequently received by Claimant through the mail, City stated as follows:

"... on August 28, 2025 the Wauwatosa Board of Review at their Initial Meeting of the 2025 Board of Review decided to dismiss the assessment objection for 3300 N. 124th Street, Wauwatosa, WI 53222 (Tax Key # 258-0003-004), due to the failure by the owner, or the owner's authorized representative, to provide the City Assessor's office with income and expense information pursuant to the requirements of the Wauwatosa Board of Review Rules and Wisconsin State Statute 70.47(7)(af)."

and

"The Assessor appeared before the Board of Review at the August 28, 2025, meeting and documented the requests of the information and the failure to provide the requested information to the Assessor."

5. At no time was Claimant notified of any hearing to be held on August 28, 2025, or at any other time, regarding Claimant's objection.

6. City's action to dismiss Claimant's objection without notice of any hearing was a denial of Claimant's due process rights under the U.S. Constitution and the Wisconsin Constitution, making the action and decision made regarding Claimant's objection on August 28, 2025 legally null and void.

7. Based on the 2025 assessment as set by the City, the City imposed a net tax of \$807,245.58 on the Property.

8. The value of the Property for 2025 is no higher than \$30,350,000. This value is derived from a contemporaneous appraisal of the Property.

9. The correct net tax on the Property for 2025 should be no higher than \$541,151.22.

10. As a result of the excessive assessment of the Property for 2025, excess tax in at least the amount of \$266,094.36 was imposed on the Property.

11. On December 17, 2025, Claimant paid the first installment of 2025 taxes on the Property in the amount of \$275,143.30, and acknowledged by the City.

12. The total amount of this claim for 2025 is at least \$266,094.36, plus interest thereon.

Dated at Milwaukee, Wisconsin this 17th day of December, 2025.

von BRIESEN & ROPER, s.c.



Alan H. Marcuvitz

Christopher R. Smith

Ryan R. Simatic

Nicholas S. Cerwin

STATE OF WISCONSIN**CIRCUIT COURT****MILWAUKEE**Phoenix Wauwatosa II Industrial Investors, LLC vs. City of Wauwatosa et al **Electronic Filing Notice**Case No. 2026CV002685
Class Code: Money Judgment

FILED

03-24-2026

Anna Maria Hodges
Clerk of Circuit Court
2026CV002685
Honorable William S.
Pocan-26
Branch 26CITY OF WAUWATOSA
7725 W. NORTH AVENUE
WAUWATOSA WI 53213

Case number 2026CV002685 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 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: 5ac57d

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: March 25, 2026

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