

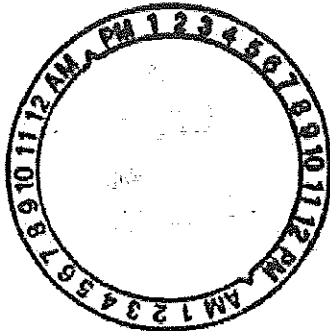
MEMO: 2013 Claims for Excessive Real Estate Assessment
DATE: 03/12/14
TO: Finance Committee
FROM: DeAnn Brosman, City Assessor

Walgreens – Parcels# 31-4-6162-01, 31-5-1173-00, 31-5-4253-00, 31-5-4253-00, 31-5-4250-00

Walgreens has filed a claim for Excessive Assessment on four of their stores and an associated parking lot. These assessments were appealed at the 2013 Board of Review where the board sustained the assessor's values based on the evidence submitted by both sides. At the Board of Review, Walgreens argued that asking prices and asking rents of vacant buildings in the Appleton area should be used to value their buildings. However, the vacant buildings presented by Walgreens are less desirable and are not reasonably comparable to the subject properties.

This claim is a continuation of 2011-2012 claims which were denied by City Council and are being pursued in circuit court. The court proceedings have been "stayed" pending the outcome of the City of Oshkosh and City of Milwaukee Walgreens cases. The submission of this claim is required prior to Walgreens pursuing litigation for the 2013 tax year which will likely be combined with the 2011-2012 court case. The city's assessed values are supported by the sale prices and private appraisals of two of these Walgreens stores, sales prices of very comparable properties, and all other evidence according to WI statutes and the WI Assessors Manual. **Therefore, I am recommending the denial of this claim in its entirety.**

*****A notice was mailed to all claimants on March 6th notifying them of the dates/times for the Finance Committee meeting and City Council meeting.**



January 21, 2014

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

CLAIM FOR EXCESSIVE ASSESSMENT

SERVED BY PROCESS SERVER

Charlene Peterson, Clerk
City of Appleton
100 N. Appleton Street
Appleton, WI 54911

Don M. Millis
1/21/14 1:50 PM

Dear Clerk:

Re: Tax Parcel Nos.: 31-4-6162-01, 31-5-1173-00, 31-5-4253-00 & 31-5-4253-00 (combined with 31-5-4250-00)

Now comes Claimant, Walgreen Co., tenant of parcels 31-4-6162-01, 31-5-1173-00, 31-5-4253-00 and 31-5-4253-00 (combined with 31-5-4250-00) (the "Properties") in Appleton, Wisconsin, by Claimant's attorneys Reinhart Boerner Van Deuren s.c., and files this Claim for Excessive Assessment against the City of Appleton (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 2013, plus statutory interest, with respect to the Properties.

2. Claimant is the tenant on 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 101 North Appleton Street, in the City.

4. The Properties are located at 3330 E. Calumet Street, 700 West College, 2803 North Meade Street and 729 West Northland Avenue within the City, and are identified in the

City records as Tax Parcel Nos. 31-4-6162-01, 31-5-1173-00, 31-5-4253-00 and 31-5-4253-00 (combined with 31-5-4250-00).

5. For 2013, property in the City was assessed at 104.26% of its fair market value as of January 1, 2013.

6. For 2013, property tax was imposed on property in the City at the rate of \$22.2778532352386 per \$1,000 for of the assessed value for Property.

7. For 2013, the City's assessor set the assessment of the Properties as follows:

31-4-6162-01	\$3,400,000
31-5-1173-00	\$3,768,000 3,600,000
31-6-7601-00	\$3,768,000
31-5-4253-00 (combined with 31-5-4250-00):	\$5,301,000

8. Claimant appealed the 2013 assessment of the Properties 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 heard the Claimant's objection and sustained the assessment on the merits as follows:

31-4-6162-01	\$3,400,000
31-5-1173-00	\$3,768,000 3,600,000
31-6-7601-00	\$3,768,000
31-5-4253-00 (combined with 31-5-4250-00):	\$5,301,000

10. The City imposed tax on the Properties as follows:

31-4-6162-01	\$75,745
31-5-1173-00	\$83,943
31-6-7601-00	\$83,943

31-5-4253-00 (combined with 31-5-4250-00):	\$118,095
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11. Claimant is timely paying the property taxes imposed by the City on the Properties for 2013, or the required installment thereof.

12. The fair market value of the Properties as of January 1, 2013 was no higher than the following:

31-4-6162-01	\$2,000,000
31-5-1173-00	\$2,000,000
31-6-7601-00	\$1,965,250
31-5-4253-00 (combined with 31-5-4250-00)	\$1,885,940

13. Based on the assessment ratio of 104.26%, the correct assessments of the Properties for 2013 is no higher than the following:

31-4-6162-01	\$2,085,200
31-5-1173-00	\$2,085,200
31-6-7601-00	2,048,970
31-5-4253-00 (combined with 31-5-4250-00)	\$1,966,281

14. Based on the tax rate of \$22.2778532352386 per \$1,000 of assessed value, the correct amount of property tax on the Properties for 2013 should be no higher than the following:

31-4-6162-01	\$46,454
31-5-1173-00	\$46,454
31-6-7601-00	\$45,647

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31-5-4253-00 (combined
with 31-5-4250-00) \$43,805

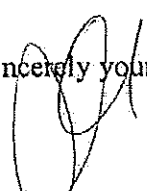
15. The 2013 assessments of the Properties, as set by the City's Board of Review were excessive and, upon information and belief, violated Article VIII, Section 1 (i.e., the Uniformity Clause) of the Wisconsin Constitution. As a result, the property tax imposed on the Properties for 2013 were excessive in at least the amount of \$179,367.

16. Claimant is entitled to a refund of 2013 tax in the amount of \$179,367, or such greater amount as may be determined to be due to Claimant, plus statutory interest.

17. The amount of this claim is \$179,367, plus interest thereon.

Dated at Madison, Wisconsin, this 21st day of January, 2014.

Sincerely yours,


Don M. Millis
Agent for Claimant