

MEMO: 2014 Claims for Excessive Real Estate Assessment
DATE: 04/8/15
TO: Finance Committee
FROM: DeAnn Brosman, City Assessor

KFC – Parcel# 31-6-0327-00

An Excessive Assessment claim was filed for the fast food restaurant at 111 E. Wisconsin Ave. The assessed value was sustained by the 2014 Board of Review. The restaurant underwent a major remodel in 2008. It is assessed at \$553,900 in line with other occupied fast food properties. H&K Partners LLC (tenant & franchisee) is requesting an assessment of \$254,800.

H & K's representative submitted an appraisal completed for tax assessment purposes to the Board of Review in the amount of \$300,000. Four out of the six comparable sales used by the appraiser were unoccupied buildings. A 2013 WI Appellate Court ruling concluded that sales prices of unoccupied dark stores are not good comparables for occupied stores. Buyers of unoccupied buildings incur holding costs, higher risk, leasing commissions, remodeling costs, etc. H & K has provided no evidence supporting a \$254,800 assessed value.

The assessed value of \$553,900 is supported by sales prices of comparable properties, the income approach to value using comparable market rents and not the higher actual rent, the cost to replace the building less depreciation, and all other evidence. **Based on these facts, I am recommending denial of this claim.**

*****A notice was mailed to the claimants on March 31st notifying them of the dates/times for the Finance Committee meeting and City Council meeting.**

Reinhart
Attorneys at Law

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January 20, 2015

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CITY OF APPLETON
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Reinhart Boerner Van Deuren s.c.
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Madison, WI 53701-2018

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CLAIM FOR EXCESSIVE ASSESSMENT

SERVED BY PROCESS SERVER

Dawn Collins, Clerk
City of Appleton
100 N. Appleton Street
Appleton, WI 54911

Dear Clerk:

Re: Tax Parcel No. 316 032700

Now comes Claimant, CNL Net Lease c/o KFC, owner as by their agent H&K Partner, LLC of parcel 316 032700 (the "Property") 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 2014, plus statutory interest, with respect to the Property.

2. Claimant is the owner on 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 100 N. Appleton Street, in the City.

4. The Property is located at 111 E. Wisconsin Avenue within the City, and is identified in the City records as Tax Parcel No. 316 032700.

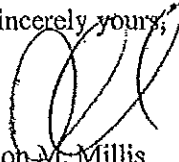
5. The Wisconsin Department of Revenue determined that the aggregate ratio of property assessed in the City was 101.9311574% as of January 1, 2014.

6. For 2014, property tax was imposed on property in the City at the rate of \$22.265 per \$1,000 for of the assessed value for Property.
7. For 2014, the City's assessor set the assessment of the Property at \$553,900.
8. Claimant appealed the 2014 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).
9. The City's Board of Review heard the Claimant's objection and sustained the assessment on the merits at \$553,900.
10. The City imposed tax on the Property in the amount of \$12,333.
11. Claimant is timely paying the property taxes imposed by the City on the Property for 2014, or the required installment thereof.
12. The fair market value of the Property as of January 1, 2014 was no higher than \$250,000.
13. Based on the aggregate ratio of 101.9311574%, the correct assessment of the Property for 2014 is no higher than \$254,828.
14. Based on the tax rate of \$22.265 per \$1,000 of assessed value, the correct amount of property tax on the Property for 2014 should be no higher than \$5,674.
15. The 2014 assessment of the Property, as set by the City's Board of Review was 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 Property for 2014 was excessive in at least the amount of \$6,659.
16. Claimant is entitled to a refund of 2014 tax in the amount of \$6,659, or such greater amount as may be determined to be due to Claimant, plus statutory interest.
17. The amount of this claim is \$6,659, plus interest thereon.

Dawn Collins, Clerk
January 20, 2015
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Dated at Madison, Wisconsin, this 20th day of January, 2015.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Don M. Millis". The signature is stylized with large, overlapping loops.

Don M. Millis
Agent for Claimant

28990633



"...meeting community needs...enhancing quality of life."

City of Appleton
City Assessor
100 N. Appleton St.
Appleton, WI 54911
920-832-5850

Attn: Don Millis
Reinhart Boerner Van Deuren s.c.
PO Box 2018
Madison WI 53701-2018

March 31st, 2015

RE: WI Statute 74.37 Claim for Excessive Assessment – KFC restaurant parcel

Dear Attorney Millis,

Your 2014 claim for Excessive Assessment on parcel 31-6-0327-00 located at 111 E. Wisconsin Ave. will be submitted to the city's Finance Committee for approval or denial next Wednesday, April 8th. If you would like to attend the meeting, it will be held at 4:30 pm in room A/B on 6th Fl. of City Hall, 100 N. Appleton St.

The Finance Committee's decision will be voted on at the Wednesday, April 22nd City Council meeting. I would recommend that you contact our City Clerk at 920-832-6448 prior to these meeting dates to confirm that the item is on the agenda and to discuss the procedures required to speak on the item if you so desire. Feel free to contact our City Attorney if you have other questions.

Sincerely,

DeAnn Brosman
City Assessor