

MEMO: CVS Pharmacy 2011 – 2013 Property Tax Refund
DATE: 02/22/17
TO: Finance Committee
FROM: DeAnn Brosman, City Assessor

CVS Pharmacy - Tax Parcel 31-5-2381-00 located at 700 W. Wisconsin Avenue

CVS Pharmacy has prevailed in its excessive assessment litigation with the city. This litigation, which began in 2011, included a seven day trial in 2014 and concluded this January with a Wisconsin Appellate Court decision in favor of CVS. Prior to the Appellate Court review, the city was denied a review by the Wisconsin Supreme Court. As a result, I am asking the committee to refund the following property taxes, interest, and fees as approved by the court:

2011 - 2013 Taxes to be refunded	\$177,470.46
Interest amount through 2/28/17	\$799.07
Plaintiff fees approved by the Appellate Court	\$152.10
Plaintiff fees approved by the Circuit Court	<u>\$3,606.49</u>
TOTAL	\$182,028.12

The city's portion of this refund is \$68,197. We will charge back \$113,831 to the school district, county, and tech school for reimbursement in 2018.

The refund is a result of the court reducing the property's assessed value from \$4,459,500 to \$1,690,000, \$1,760,000, and \$1,855,000 in these three years. The court stated that the WDOR's 2009 revisions to the Wisconsin Property Assessors Manual, of which we relied upon, conflicted with the 2008 Walgreen Co. v. City of Madison Supreme Court decision and therefore are inappropriate. The manual revisions required assessors to consider a property's lease when valuing the property, whereas, the court valued the property as if unoccupied and for lease to a secondary retail user. In doing so, the court ignored the \$4.5 million that CVS paid to develop the property, the 2009 sale price of \$4.5 million, the 2012 sale price of \$4.7 million, and the prices paid for similar-occupied pharmacies.

As a result of the 2008 Walgreen Co. v. City of Madison decision, national retailers have filed over 20 excessive assessment lawsuits within the regional market area of Oshkosh to Green Bay. Please see the resolution on the Community and Economic Development Agenda which calls for legislative action to counteract this trend.