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FILED JUN 29 2022
06-01-2022
Sheboygan County
Clerk of Circuit Court
2022CV000292
Honorable Samantha R.
Bastil
Branch 1

STATE OF WISCONSIN CIRCUIT COURT SHEBOYGAN

BADGER STATE LOFTS, LP vs. CITY OF SHEBOYGAN **Electronic Filing
Notice**

Case No. 2022CV000292
Class Code: Money Judgment

CITY OF SHEBOYGAN
828 CENTER AVENUE
SHEBOYGAN WI 53081

Process Server
Date: 6/19/22 Time: 3:36 am
☐ Personal ☐ Substitute
☐ Posted ☐ Corporate

Case number 2022CV000292 was electronically filed with/converted by the Sheboygan 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 \$20.00 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: 150aea

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 920-459-3068.

Sheboygan County Circuit Court
Date: June 1, 2022

JUN 29 '22 3:47

FILED
06-01-2022
Sheboygan County
Clerk of Circuit Court
2022CV000292
Honorable Samantha R.
Bastil
Branch 1

STATE OF WISCONSIN
CIRCUIT COURT
SHEBOYGAN COUNTY

BADGER STATE LOFTS, LP
9311 N. Meridian Street, Suite 100
Indianapolis, IN 46260-1865,

Plaintiff,

v.

Case No. _____
Money Judgment - 30301

CITY OF SHEBOYGAN,
828 Center Avenue
Sheboygan, WI 53081,

Defendant.

SUMMONS

To each entity named above as Defendant:

You are hereby notified that the plaintiff named above have filed a lawsuit or other legal action against you. The Complaint, which is attached, states the nature and basis of the legal action.

Within 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 or electronically filed with the Court, whose address 615 North 6th Street, Sheboygan, Wisconsin 53081, and to plaintiff's attorneys, Reinhart Boerner Van Deuren s.c., whose address is 22 East Mifflin Street, Suite 700, Madison, Wisconsin 53703. You may have an attorney help or represent you.

If you do not provide a proper answer within 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 this 1st day of June, 2022.

Reinhart Boerner Van Deuren s.c.
22 East Mifflin Street, Suite 700
Milwaukee, WI 53703
Telephone: 608-229-2200
Facsimile: 608-229-2100

Mailing Address:
P.O. Box 2018
Milwaukee, WI 53701-2018

Electronically signed by Don M. Millis

Don M. Millis
State Bar ID No. 1015755
Sara Stellpflug Rapkin
State Bar ID No. 1076539
Shawn E. Lovell
State Bar ID No. 1079801
Karla M. Nettleton
State Bar ID No. 1098960
Attorneys for Plaintiff

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STATE OF WISCONSIN
CIRCUIT COURT
SHEBOYGAN COUNTY

BADGER STATE LOFTS, LP
9311 N. Meridian Street, Suite 100
Indianapolis, IN 46260-1865,

Plaintiff,

v.

CITY OF SHEBOYGAN,
828 Center Avenue
Sheboygan, WI 53081,

Case No. _____
Money Judgment - 30301

Defendant.

COMPLAINT

Plaintiff Badger State Lofts LP ("Plaintiff"), by its undersigned counsel, Reinhart Boerner Van Deuren s.c., for its Complaint against the defendant the City of Sheboygan (the "City"), alleges as follows:

NATURE OF ACTION AND PARTIES

1. This action is brought under Wis. Stat. § 74.37(3)(d), for a refund of excessive real estate taxes imposed on Plaintiff by the City for the 2021 tax year, plus statutory interest, with respect to a parcel of real property in the City (the "Property").

2. Plaintiff is the owner of 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 828 Center Avenue, in the City.

4. The Property is located at 1031 Maryland Avenue, within the City, and is identified in the City's records as Tax Parcel No. 59281505650.

JURISDICTION AND VENUE

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

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

BACKGROUND FACTS

2021 Assessment - Background Facts

7. The Department of Revenue determined that the aggregate ratio of property assessed in the City was 78.6759827% as of January 1, 2021.

8. For 2021, property tax was imposed on property in the City at the rate of \$26.21 per \$1,000 of assessed value for the Property.

9. For 2021, the City's assessor set the assessment of the Property at \$14,307,000.

10. Plaintiff did not receive any notice of the changed assessment pursuant to Wis. Stat. § 70.365. Therefore, Plaintiff was not required to comply with City's Board of Review procedures pursuant to Wis. Stat. § 74.37(4)(a).

11. The City imposed tax on the Property in the amount of \$374,992.28.

12. Plaintiff timely paid the property taxes imposed by the City on the Property for 2021, or the required installment thereof.

13. On January 31, 2022, Plaintiff timely and personally served on the City Clerk a claim for excessive assessment pursuant to Wis. Stat. § 74.37(2) (the "2021 Claim"). A true and

correct copy of the 2021 Claim is attached hereto as **Exhibit A** and is incorporated herein by reference.

14. On or about March 4, 2022, Plaintiff received a letter from the City, stating that the City Common Council considered the 2021 Claim and disallowed the 2021 Claim in its entirety (the "2021 Disallowance"). A true and correct copy of the 2021 Disallowance is attached hereto as **Exhibit B** and is incorporated herein by reference

CLAIM FOR RELIEF

15. The allegations of paragraphs 1-14 are incorporated as if fully re-alleged herein.

2021 Assessment - Claim for Relief

16. The fair market value of the Property as of January 1, 2021 was no higher than \$6,500,000.

17. Based on the aggregate ratio of 78.6759827%, the correct assessment of the Property for the 2021 tax year was no higher than \$5,113,939.

18. Based on the tax rate of \$26.21 per \$1,000 of assessed value, the correct amount of property taxes on the Property for the 2021 tax year is no higher than \$134,038.

19. The 2021 assessment of the Property, as set by the City's Assessor and compared with other commercial properties in the City 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 2021 may be excessive in at least the amount of \$240,954.

20. Upon information and belief the City will take the position that the assessment of property in the City is at market value and, if true, then an over assessment of the Property constitutes a Uniformity Clause violation. As a result of the assessment of the Property, the Property bears an unreasonably disproportionate share of taxes on an ad valorem basis.

21. Plaintiff is entitled to a refund of 2021 tax in the amount of at least \$240,954, or such greater amount as may be determined to be due to Plaintiff, plus statutory interest.

WHEREFORE, Plaintiff respectfully requests the following relief:

A. A determination that the assessment of the Property for 2021 should be no higher than \$5,113,939;

B. A determination that the correct tax on the Property for 2021 should be no higher than \$134,038;

C. Judgment in the amount of \$240,954 or such greater amount as may be determined due to Plaintiff, plus statutory interest;

D. An award of all litigation costs incurred by Plaintiff in this action, including the reasonable fees of its attorneys; and

E. Such other and further relief as the Court deems appropriate and just.

Dated this 1st day of June, 2022.

Reinhart Boerner Van Deuren s.c.
22 East Mifflin Street, Suite 700
Madison, WI 53703
Telephone: 608-229-2200
Facsimile: 608-229-2100

Mailing Address:
P.O. Box 2018
Madison, WI 53701-2018

47405268

Electronically signed by Don M. Millis

Don M. Millis
State Bar ID No. 1015755
Sara Stellpflug Rapkin
State Bar ID No. 1076539
Shawn E. Lovell
State Bar ID No. 1079801
Karla M. Nettleton
State Bar ID No. 1098960
Attorneys for Plaintiff



Rec'd
JAN 31 '22 11:25 MD
Reinhart Boerner Van Deuren s.c.
P.O. Box 2018
Madison, WI 53701-2018

22 East Mifflin Street
Suite 700
Madison, WI 53703

Telephone: 608.229.2200
Fax: 608.229.2100
reinhartlaw.com

January 26, 2022

EXHIBIT**A**

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

CLAIM FOR EXCESSIVE ASSESSMENT**SERVED BY PROCESS SERVER**

Meredith DeBruin, Clerk
City of Sheboygan
City Hall
828 Center Avenue, Suite 103
Sheboygan, WI 5308

Process Server *RMH*
Date 1/31/22 Time 11:28 am
☐ Personal ☐ Substitute
☐ Posted ☒ Corporate

Dear Clerk:

Re: Tax Parcel No. 59281505650

Now comes Claimant, Badger State Lofts LP, owner of parcel 59281505650 0 (the "Property") in Sheboygan, Wisconsin, by Claimant's attorneys Reinhart Boerner Van Deuren s.c., and files this Claim for Excessive Assessment against the City of Sheboygan (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 2021, plus statutory interest, with respect to the Property.

2. Claimant is the owner of 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 828 Center Avenue in the City.

4. The Property is located at 1031 Maryland Avenue within the City and is identified in the City's records as Tax Parcel No. 59281505650.

5. The Wisconsin Department of Revenue determined that the aggregate ratio of property assessed in the City was 78.6759827% as of January 1, 2021.

Meredith DeBruin, Clerk
January 26, 2022
Page 2

6. For 2021, property tax was imposed on property in the City at the rate of \$26.210405 per \$1,000 for of the assessed value for Property.

7. For 2021, the City's assessor set the assessment of the Property at \$2,759,000.

8. Claimant did not receive any notice of the changed assessment pursuant to Wis. Stat. § 70.365. Therefore, Claimant was not required to comply with City's Board of Review procedures pursuant to Wis. Stat. § 74.37(4)(a).

9. The City imposed tax on the Property in the amount of \$374,992.28.

10. Claimant timely paid the property taxes imposed by the City on the Property for 2021, or the required installment thereof.

11. The fair market value of the Property as of January 1, 2021 was no higher than \$6,500,000.

12. Based on the aggregate ratio 78.6759827%, the correct assessment of the Property for 2021 is no higher than \$5,113,939.

13. Based on the tax rate of \$26.210405 per \$1,000 of assessed value, the correct amount of property tax on the Property for 2021 should be no higher than \$134,038.

14. The 2021 assessment of the Property, as set by the City's Board of Assessors and compared with other properties in the City 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 2021 was excessive in at least the amount of \$240,954.

16. Upon information and belief the City will take the position that the assessment of property in the City is at market value and, if true, then an over assessment of the Property constitutes a Uniformity Clause violation. As a result of the assessment of the Property, the Property bears an unreasonably disproportionate share of taxes on an ad valorem basis.

17. Claimant is entitled to a refund of 2021 tax in the amount of \$240,954, or such greater amount as may be determined to be due to Claimant, plus statutory interest.

18. The amount of this claim is \$240,954, plus interest thereon.

Meredith DeBruin, Clerk
January 26, 2022
Page 3

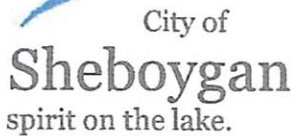
Dated at Madison, Wisconsin, this 26th day of January, 2022.

Sincerely yours,



Don M. Millis
Agent for Claimant

46684067



March 4, 2022

CERTIFIED & RESTRICTED MAIL

Reinhart Boerner Van Deuren s.c.
c/o Attorney Don Millis
22 East Mifflin Street, Suite 700
Madison, WI 53701-2018



Re: Your Claimant: Badger State Lofts LP
Date of Loss: 2021 Tax Year

Dear Attorney Millis:

City of Sheboygan staff have reviewed and considered your claim filed on January 31, 2022, concerning damages your claimant allegedly received, and denied it in full.

Please be advised that no lawsuit may be brought on this claim against the City of Sheboygan or any of its officials, officers, agents or employees after six (6) months from the date of receipt of this letter.

If you have any further questions on this claim, contact the City Attorney's office at 459-3917.

Sincerely,


Charles C. Adams
CITY ATTORNEY

CCA/mms

cc: City Clerk Meredith DeBruin
Financial Reporting Analyst Margo Wagner
Director of Liability Claims Allison DeFranze

CITY ATTORNEY'S OFFICE

CITY HALL
828 CENTER AVENUE
SUITE 210
SHEBOYGAN, WI 53081

920/459-3917
FAX 920/459-3919

www.sheboyganwi.gov

EXHIBIT

B

WISCONSIN CITY ATTORNEY
WATER AVENUE, SUITE 2
MILWAUKEE, WI 53081



MILWAUKEE WI 530

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US POSTAGE

IN RECEIPT
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RESTRICTED DELIVERY

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Reinhart Boerner Van Deuren s.c
c/o Attorney Don Millis
22 East Mifflin Street, Suite 700
Madison, WI 53701-2018

RESTRICTED DELIVERY



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