

VI

R. C. No. 274 - 21 - 22. By FINANCE AND PERSONNEL COMMITTEE.
April 18, 2022.

Your Committee to whom was referred R. O. No. 79-21-22 by City Clerk submitting a Summons and Complaint in the matter of Washington School Apartments, LLC vs. City of Sheboygan; recommends referring to the Finance and Personnel Committee of the 2022-2023 Council.

*F+P
2022-2023 Council*

_____	_____
_____	_____
_____	_____
	Committee

I HEREBY CERTIFY that the foregoing Committee Report was duly accepted and adopted by the Common Council of the City of Sheboygan, Wisconsin, on the _____ day of _____, 20____.

Dated _____ 20____. _____, City Clerk
Approved _____ 20____. _____, Mayor

II

4.4

R. O. No. 79 - 21 - 22. By CITY CLERK. September 7, 2021.

Submitting a Summons and Complaint in the matter of Washington School Apartments, LLC vs. City of Sheboygan.

FHP

CITY CLERK

STATE OF WISCONSIN CIRCUIT COURT SHEBOYGAN

Washington School Apartments, LLC vs. City of
Sheboygan

**Electronic Filing
Notice**

Case No. 2021CV000312
Class Code: Money Judgment

FILED
08-06-2021
Sheboygan County
Clerk of Circuit Court
2021CV000312
Honorable Daniel J
Borowski
Branch 5

CITY OF SHEBOYGAN
828 CENTER AVENUE
SHEBOYGAN WI 53081

PROCESS SERVED
TIME 1:15 AM DATE 8/30/21
() PERSONAL () SUBSTITUTE
() POSTED (X) CORPORATE

AUG 30 '21 PM 1:24

Case number 2021CV000312 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: 0cc5fc

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: August 9, 2021

FILED
08-06-2021
Sheboygan County
Clerk of Circuit Court
2021CV000312
Honorable Daniel J
Borowski
Branch 5

STATE OF WISCONSIN CIRCUIT COURT SHEBOYGAN COUNTY

WASHINGTON SCHOOL APARTMENTS, LLC
A Wisconsin Limited Liability Company,
200 North Main Street,
Oregon, WI 53575,

Plaintiff,

vs.

Case No.:
Case Code No.: 30301

CITY OF SHEBOYGAN,
A Municipal Corporation,
828 Center Avenue,
Sheboygan, WI 53081,

Defendant.

SUMMONS

THE STATE OF WISCONSIN, To each person named above as a 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 twenty (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 the court, whose address is, Sheboygan County Clerk of Circuit Courts, 615 North 6th Street, Sheboygan, Wisconsin 53081 and to Rogahn Jones LLC, Plaintiff's attorney, whose address is Rogahn Jones LLC, N16 W23233 Stone Ridge Drive, Suite 270, Waukesha, Wisconsin, 53188. You may have an attorney help or represent you.

If you do not provide a proper answer within twenty (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 6th day of August 2021.

ROGAHN JONES LLC
Attorneys for:
Washington School Apartments, LLC
Electronically Signed By Michael Kozicz

/s/ Michael Kozicz

Michael S. Kozicz
WI State Bar ID No. 1094652
mkozicz@rogahnjones.com

P.O. Address:
ROGAHN JONES LLC
N16W23233 Stone Ridge Drive, Suite 270
Waukesha, WI 53188
(262) 226-9554

FILED
08-06-2021
Sheboygan County
Clerk of Circuit Court
2021CV000312
Honorable Daniel J
Borowski
Branch 5

STATE OF WISCONSIN CIRCUIT COURT SHEBOYGAN COUNTY

WASHINGTON SCHOOL APARTMENTS, LLC
A Wisconsin Limited Liability Company,
200 North Main Street,
Oregon, WI 53575

Plaintiff,

vs.

Case No.:
Case Code No.: 30301

CITY OF SHEBOYGAN,
A Municipal Corporation,
828 Center Avenue,
Sheboygan, WI 53081,

Defendant.

EXCESSIVE ASSESSMENT COMPLAINT

Washington School Apartments, LLC (hereinafter "Washington"), by its attorneys,
Rogahn Jones LLC, as its excessive assessment complaint against the City of Sheboygan
(hereinafter "City") alleges as follows:

1. This action is brought pursuant to Wis. Stat. §70.47(8m) and Wis. Stat. §
74.37(3)(d) against the City for a correction of the assessor's assessment and for a refund of
excessive real estate taxes imposed on Washington by the City for the year 2021, plus statutory
interest, with respect to a parcel of real property in the City (hereinafter "the Property").

2. Washington 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 1238 Geele Avenue within the City, and is identified in the City records as Tax Parcel No. 59281719721.

5. This 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).

7. The aggregate ratio of property assessed in the City as of January 1, 2021, has not been determined as of the date of filing.

8. For 2020, property in the City was assessed at 81.08% of its fair market value as of January 1, 2020.

9. For 2020, property tax was imposed on property in the City at the rate of \$26.82 per \$1,000.00 of the assessed value for property.

10. For 2021, the City's assessor set the assessment of the Property at \$2,986,000.00.

11. Washington appealed the 2021 assessment of the Property by filing a timely objection with the BOR pursuant to Wis. Stat. §70.47 and otherwise complying with all of the requirements of Wis. Stat. §70.47, except 70.47(13).

12. The BOR waived the hearing of Washington's objection pursuant to Wis. Stat. §70.47(8m). A true and correct copy of the waiver of hearing for the Property is attached hereto.

13. The effect of the BOR's waiver is the disallowance of Washington's claim of excessive assessment, and maintenance of the 2021 assessment of the Property, without a hearing, at \$2,986,000.00.

14. Assuming the 2021 mill rate will be essentially the same as the 2020 mill rate, the City will impose tax on the Property in the amount of \$80,041.35.

15. The BOR's disallowance of Washington's claim of excessive assessment entitles Washington to appeal that disallowance to the circuit court through this action pursuant to Wis. Stat. §70.47(8m) and Wis. Stat. §74.37(3)(d).

16. The fair market value of the Property as of January 1, 2021, was no higher than \$1,550,000.00.

17. Assuming the aggregate assessment ratio of 81.08%, the correct assessment of the Property for 2021 is no higher than \$1,256,740.00.

18. Assuming a tax rate of \$26.82 per \$1,000.00 of assessed value, the correct amount of property tax on the Property for 2021 should be no higher than \$33,705.77.

19. The 2021 assessment of the Property, as set by the BOR 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 2021 property assessment was excessive in at least the amount of \$1,729,260.00 and the tax imposed on the Property for 2021 was excessive in at least the amount of \$46,335.58.

20. Washington is entitled to a correction of the assessment of the Property for 2021 to \$1,256,740.00.

21. In the event that litigation on this matter should extend beyond the time that Washington is required to, or does, pay the 2021 tax on the Property, Washington will be entitled

to a refund of 2021 tax in the amount of \$46,335.58, or such greater amount as may be determined to be due Washington, plus statutory interest.

WHEREFORE, Washington requests the following relief:

1. A determination and declaration that the assessment of the Property for 2021 should be no higher than \$1,256,740.00.
2. A determination that the correct tax on the Property for 2021 should be no higher than \$33,705.77.
3. Judgement in the amount \$46,335.58, on the Property for 2021 or such greater amount as may be determined due to Washington, plus statutory interest.
4. An award of all litigation costs incurred by Washington in this action, including the reasonable fees of its attorneys.
5. Such other and further relief as may be appropriate.

Dated this 6th day of August 2021.

ROGAHN JONES LLC
Attorneys for:
Washington School Apartments, LLC
Electronically Signed by Michael Kozicz

/s/ *Michael Kozicz*

Michael S. Kozicz
WI State Bar ID No. 1094652
mkozicz@rogahnjones.com

P.O. Address:
ROGAHN JONES LLC
N16W23233 Stone Ridge Drive, Suite 270
Waukesha, WI 53188
(262) 226-9554

Request for Waiver of Board of Review (BOR) Hearing

Section 70.47 (8m), Wis. Stats., states, "The board may, at the request of the taxpayer or assessor, or at its own discretion, waive the hearing of an objection under sub. (8) or, in a 1st class city, under sub. (16) and allow the taxpayer to have the taxpayer's assessment reviewed under sub. (13). For purposes of this subsection, the board shall submit the notice of decision under sub. (12) using the amount of the taxpayer's assessment as the finalized amount. For purposes of this subsection, if the board waives the hearing, the waiver disallows the taxpayer's claim on excessive assessment under sec. 74.37(3) and notwithstanding the time period under sec. 74.37(3)(d), the taxpayer has 60 days from the notice of hearing waiver in which to commence an action under sec. 74.37(3)(d)."

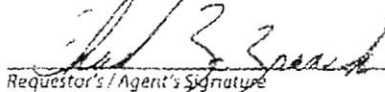
NOTE: The legal requirements of the Notice of Intent to Appear must be satisfied and the Objection Form must be completed and submitted as required by law prior to the Request for Waiver of Board of Review Hearing being submitted.

NOTE: Request for Waiver must be presented prior to the commencement of the hearing.

Municipality Sheboygan	County Sheboygan
Requestor's name Washington School Apartments LLC	Agent name (if applicable) * Chad Zeznanski
Requestor's mailing address 200 North Main Street Oregon, WI 53575	Agent's mailing address 10000 Innovation Drive, Suite 250 Milwaukee, WI 53226
Requestor's telephone number () - <input type="checkbox"/> Land Line <input type="checkbox"/> Cell Phone	Agent's telephone number (262) 225-1784 <input type="checkbox"/> Land Line <input checked="" type="checkbox"/> Cell Phone
Requestor's email address	Agent's email address czeznanski@wipfli.com

Property address 1238 Geele Avenue	
Legal description or parcel number Parcel number: 59281719721	
Taxpayer's assessment as established by assessor - Value as determined due to waiving of BOR hearing \$ 2,986,000	
Property owner's opinion of value \$ 1,550,000	
Basis for request The subject property's 2021 assessed value exceeds the subject's fair market value as of January 1, 2021.	
Date Notice of Intent to Appear at BOR was given 5/3/2021	Date Objection Form was completed and submitted 5/3/2021

All parties to the hearing understand that in granting of this waiver there can be no appeal to the Department of Revenue under sec. 70.85, Wis. Stats. An action under sec. 70.47(13), Wis. Stats., must be commenced within 90 days of the receipt of the notice of the waiving of the hearing. An action under sec. 74.37(3)(d), Wis. Stats., must be commenced with 60 days of the receipt of the notice of the waiving of the hearing.


Requestor's / Agent's Signature

***If agent, attach signed Agent Authorization Form, PA-105**

Decision

☒ Approved ☐ Denied

Reason _____


Board of Review Chairperson's Signature

☒ Taxpayer advised **6-10-2021**
Date sent via mail

6/8/2021
Date