

WISCONSIN LUTHERAN HIGH SCHOOL
CONFERENCE,
330 North Glenview Avenue,
Milwaukee, Wisconsin 53213,

Plaintiff,

Case Code: 30301

v.

Case Type: Money Judgment

CITY OF MILWAUKEE,
200 East Wells Street
Milwaukee, WI 53202

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 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 Milwaukee County Courthouse, 901 North 9th Street, Milwaukee, Wisconsin 53233, and to Plaintiff's attorney, the Wisconsin Institute for Law & Liberty, Inc., whose address is 330 East Kilbourn Avenue, Suite 725, Milwaukee, Wisconsin 53202. 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 22nd day of June, 2022.

Wisconsin Institute for Law & Liberty, Inc.
Attorneys for Plaintiff WLHS

/s/ Electronically signed by Lucas T. Vebber
Richard M. Esenberg (WI Bar No. 1005622)
Katherine Spitz (WI Bar No. 1066375)
Lucas T. Vebber (WI Bar No. 1067543)
330 East Kilbourn Avenue, Suite 725
Milwaukee, Wisconsin 53202
Phone: 414-727-9415
Facsimile: 414-727-6385
Rick@will-law.org
Kate@will-law.org
Lucas@will-law.org

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COMPLAINT

Plaintiff, Wisconsin Lutheran High School Conference (“Wisconsin Lutheran”), by and through its undersigned attorneys, Wisconsin Institute for Law & Liberty, Inc., hereby states and alleges its Complaint against Defendant City of Milwaukee (“City”) as follows:

INTRODUCTION

1. This is an action filed pursuant to Wis. Stat. § 74.35 to recover that amount of the general property tax imposed upon and paid by Wisconsin Lutheran for the 2021 tax year because the City’s assessment was unlawful.

PARTIES

2. Plaintiff Wisconsin Lutheran is a Wisconsin corporation with its principal place of business located at 330 North Glenview Avenue in the City of Milwaukee, Milwaukee County, State of Wisconsin, 53213.

3. Defendant City of Milwaukee is a Wisconsin municipal corporation with its principal place of business located at 200 East Wells Street, in the City of Milwaukee, Milwaukee County, State of Wisconsin, 53202.

JURISDICTION AND VENUE

4. This action is brought pursuant to Wis. Stat. § 74.35.

5. Venue in Milwaukee County is appropriate because the property which is the subject of this claim is located within this County, Wis. Stat. § 801.50(2).

FACTS

6. At all relevant times, Wisconsin Lutheran owned the property located in the City of Milwaukee at 365 North Honey Creek Parkway, Milwaukee, WI 53213 (previously/alternatively addressed as 8041 West Bluemound Road, Unit 1, Milwaukee, WI 53213), identified by the City as Tax Key No. 4070951000 (herein, the “Property”).

7. The Property is one of several contiguous parcels that make up the campus of Wisconsin Lutheran High School. This parcel contains a residence hall known as Honey Creek Hall that is used for student housing and other educational uses. A map of the Wisconsin Lutheran High School Campus showing the location of Honey Creek Hall is attached hereto as Exhibit 1.

8. The real estate on which Honey Creek Hall sits is part of a condominium which contains two condominium units. Wisconsin Lutheran owns Unit 1 which is made up of Honey Creek Hall and the real estate on which it is located.

9. The Property, as part of the Wisconsin Lutheran High School campus, is used for educational and religious purposes. Specifically, as noted above, the Property is home to Honey Creek Hall, a residence hall for students at Wisconsin Lutheran High School.

10. Honey Creek Hall provides basic housing, outdoor classroom space, physical recreation areas, worship and bible study space, and sleeping quarters exclusively for both domestic and international students who attend the high school. Space within this building is not offered for rent to the general public or used for any purpose other than in connection with the high school.

11. For the 2021 tax year, the Property was assessed at \$4,035,200, consisting of \$72,000 for land and \$3,963,200 for improvements thereon (the “2021 Assessment”).

12. Thereafter, the City issued a Real Estate Property Tax Bill (“Tax Bill”) based upon the 2021 Assessment, which alleged a total net property tax due of \$105,946.14.

13. The Property is entitled to exemption from the property tax pursuant to Wis. Stat. § 70.11(4) because it is used exclusively by a church or religious association for educational purposes. As a result, the 2021 Assessment was unlawful.

14. Wisconsin Lutheran is an educational institution for the purposes of Wis. Stat. § 70.11(4), as it is a nonprofit organization substantially and primarily devoted to educational purposes and it uses Honey Creek Hall to support its educational mission.

15. Wisconsin cases explain that traditional educational activities are not limited to “a formal school setting in ivy-covered halls.” Even so, Honey Creek Hall provides “traditional” aspects of education, such as structured study schedules, fostering integration with the educational community (including formal mentoring), helping struggling students (including formal tutoring), Bible studies, and building English proficiency of international students. *Janesville Cmty. Day Care Ctr., Inc. v. Spoden*, 126 Wis. 2d 231, 240-41, 376 N.W.2d 78 (1985) (quoting *International Foundation v. City of Brookfield*, 95 Wis. 2d 444, 456, 290 N.W.2d 608 (1974)).

16. Residence halls themselves are also part of traditional education throughout Wisconsin and the country.

17. Wisconsin Lutheran filed a Property Tax Exemption Request on February 26, 2021 (the “Exemption Request”). A true and correct copy of the Exemption Request (including all required attachments) is attached hereto as Exhibit 2.

18. The Exemption Request was denied by the City of Milwaukee Assessor on October 7, 2021.

19. Wisconsin Lutheran timely paid the Tax Bill and timely filed a refund claim to recover the \$105,946.14 it paid in unlawful taxes as a result of the 2021 Assessment. A true and correct copy of a City of Milwaukee Combined Tax Receipt and Statement of Account for the Property which shows the taxes have been paid in full and Wisconsin Lutheran's refund claim (which was filed on January 28, 2022) are attached hereto as Exhibits 3 and 4, respectively.

20. Wisconsin Lutheran has fully complied with all statutory requirements under its control for procedurally objecting to the 2021 Assessment under Wis. Stat. § 74.35.

21. On June 11, 2022, Wisconsin Lutheran (via their attorney) received notice via certified mail that the City had disallowed Wisconsin Lutheran's claim. A true and correct copy of this notice and the envelope it was sent in (which were both marked by staff for Wisconsin Lutheran's attorney as received on June 11, 2022) are attached hereto as Exhibit 5.

22. The June 11, 2022 notice of disallowance was not provided within 90 days after the claim was filed, as required by Wis. Stat. § 74.35(3)(b).

23. Pursuant to Wis. Stat. § 74.35 Wisconsin Lutheran timely commenced this action relating to the 2021 tax year within 90 days after they received notice by certified mail that the claim was disallowed.

24. Wisconsin Lutheran has not contested the 2021 Assessment of the Property under Wis. Stat. §§ 74.33 or 806.04.

CLAIMS FOR RELIEF

25. All of the foregoing paragraphs are incorporated as if fully re-alleged herein.

26. The 2021 Assessment resulted in an unlawful tax assessed against the Property, as defined in Wis. Stat. § 74.35, because the City's 2021 Assessment included exempt real property.

27. Wisconsin Lutheran is aggrieved by the imposition of the general property tax based on the unlawful assessment by the City and is, therefore, entitled to a refund under Wis. Stat.

§ 74.35 of the unlawful taxes it paid to the City for the 2021 tax year, together with interest as provided by Wis. Stat. § 74.35(4).

WHEREFORE, Wisconsin Lutheran respectfully requests that this Court:

- A. Declare that the 2021 Assessment was unlawful;
- B. Declare that Wisconsin Lutheran paid more than its fair share of taxes due to the assessment of exempt property in 2021;
- C. Declare that Wisconsin Lutheran is entitled to a refund of the unlawful taxes assessed by the City pursuant to Wis. Stat. § 74.35, together with interest pursuant to Wis. Stat. § 74.35(4); and
- D. Such other relief that the Court deems just and equitable under the circumstances.

Dated this 22nd day of June, 2022.

Wisconsin Institute for Law & Liberty, Inc.
Attorneys for Plaintiff WLHS

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