

STATE OF WISCONSIN

CIRCUIT COURT

MANITOWOC COUNTY

**FILED**

MENARD, INC.  
5101 MENARD DRIVE  
EAU CLAIRE, WI 54703,

SEP 16 2016

CLERK OF CIRCUIT COURT  
MANITOWOC COUNTY, WI

Plaintiff,

Case No.: '16 CV 362  
Case Code: 30301  
(Money Judgment Over \$10,000)

v.

CITY OF MANITOWOC  
900 QUAY STREET  
MANITOWOC, WI 54220

Defendant.

*Handwritten notes:*  
11/5/16  
Sept 23 '16  
12:35p

**SUMMONS**

THE STATE OF WISCONSIN

To each person named above as a defendant:

RECEIVED  
SEP 23 2016  
CITY CLERKS OFFICE

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 1010 South Eighth Street, Manitowoc, WI 54221-2000, and to Attorney

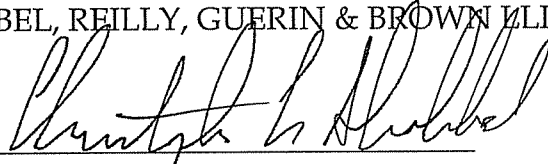
Christopher L. Strohbahn of Gimbel, Reilly, Guerin & Brown LLP, plaintiff's attorney, whose address is Two Plaza East, Suite 1170, 330 East Kilbourn Avenue, Milwaukee, Wisconsin 53202. You may have an attorney help or represent you.

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 15<sup>th</sup> day of September, 2016.

GIMBEL, REILLY, GUERIN & BROWN LLP

By:



CHRISTOPHER L. STROHBEHN

State Bar No. 1041495

cstrohbahn@grglaw.com

Attorneys for Plaintiff

POST OFFICE ADDRESS:  
Two Plaza East, Suite 1170  
330 East Kilbourn Avenue  
Milwaukee, Wisconsin 53202  
Telephone: 414/271-1440

NATIONAL TRIAL COUNSEL  
Robert A. Hill (Minn. Lic. #217165)  
ROBERT HILL LAW, LTD  
1339 County Road D East  
Maplewood, MN 55109  
(952) 426-7373 - Phone  
bob@roberthilllaw.com

*civ/Menard-Manitowoc #3141/P/Summons 2016-09-15*

STATE OF WISCONSIN

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MENARD, INC.  
5101 MENARD DRIVE  
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CLERK OF CIRCUIT COURT  
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Plaintiff,

Case No.: '16 CV 0 3 6 2

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(Money Judgment: Over \$10,000)

v.

CITY OF MANITOWOC  
900 QUAY STREET  
MANITOWOC, WI 54220,

Defendant.

---

**COMPLAINT**

---

Plaintiff Menard, Inc. ("Menard"), by its undersigned counsel, Christopher L. Strohbahn and Gimbel, Reilly, Guerin & Brown LLP, and Robert A. Hill and Robert Hill Law, Ltd., for its complaint against Defendant City of Manitowoc ("the City"), alleges as follows:

**Nature of Action and Parties**

1. This action is brought under WIS. STAT. §74.37(3)(d), for a declaration by this court that the 2016 fair market value with respect to the parcel of real property in the City known as parcel # 835-203-011 ("the Property"), is no more than \$5,900,000, and, if necessary, for a refund of the excessive real estate taxes due to be imposed on Menard by the City for the Property in 2016, plus statutory interest.

2. Menard is a domestic corporation duly licensed to conduct business in the State of Wisconsin. Menard is located at 5101 Menard Drive, Eau Claire, Wisconsin 54703. Menard is the tenant on the Property and is responsible for the payment of property taxes, as well as for the prosecution of property tax disputes involving the Property.

3. The City is a body politic, duly organized as a municipal corporation under Wisconsin law, with its principal office located at 900 Quay Street, Manitowoc, Wisconsin 54220.

4. The Property is located at 5120 Calumet Ave within the City.

#### **Background Facts**

5. The 2016 Total Estimated Fair Market Value ("EFMV") of the property was set by the City Assessor's office at \$8,729,800.

6. Menard timely filed an objection to the 2016 assessment of the Property with the City's Board of Review ("BOR") pursuant to WIS. STAT. §70.47. The Board granted a Waiver of Board of Review Hearing ("Waiver") in accordance with the provisions of WIS. STAT. §70.47.

7. Based on the BOR's Waiver determination, WIS. STAT. §70.47 requires Menard to commence an action within sixty days of its receipt of the Waiver. In this case, notice was received by Menard's agent-in-fact, Paradigm Tax Group, on July 22, 2016. See attached Ex.1.

**First Claim for Relief - Excessive Tax Assessment**

8. The allegations of paragraphs 1-7 are incorporated as if fully re-alleged herein.

9. The fair market value of the Property as of January 1, 2016 was no higher than \$5,900,000.

10. The 2016 assessment of the Property was excessive. As a result, the tax imposed on the Property for 2016 was excessive.

11. Upon information and belief, the 2016 assessment was not uniform with the assessment of other properties in the City and State and therefore, violates the Uniformity Clause of the Wisconsin Constitution.

12. Menard is entitled to a refund of 2016 as may be determined to be due to Menard, plus statutory interest.

**Second Claim for Relief - Declaratory Judgment**

13. The allegations of paragraphs 1-12 are incorporated as if fully re-alleged herein.

14. As alleged above, the City's BOR delegated its authority to determine the 2016 EFMV for the Property to this court for its determination.

15. An actual and justiciable controversy exists as to Menard's right to a reduction in its 2016 EFMV as set forth in WIS. STAT. §70.47.

16. Menard seeks a declaratory judgment construing WIS. STAT. §70.47 to mandate a reduction in its 2016 EFMV for the Property from \$8,729,800 to \$5,900,000, in

accordance with Wisconsin statutory and case law as well as generally accepted appraisal principles.

17. If the Court rules that a hearing is mandated, Menard seeks an order scheduling an evidentiary hearing from which this court may make an administrative determination of the EFMV for the Property.

**WHEREFORE**, plaintiff Menard, seeks the following relief:

A. A determination that the total estimated fair market value of the Property as of January 1, 2016 was no higher than \$5,900,000.

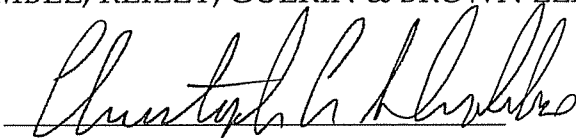
B. An award of all litigation costs incurred by Menard in this action, including the reasonable fees of its attorneys; and

C. Any such other and further relief as the Court deems appropriate and just.

Dated this 15<sup>th</sup> day September, 2016.

GIMBEL, REILLY, GUERIN & BROWN LLP

By:



CHRISTOPHER L. STROHBEHN

State Bar No. 1041495

cstrohbehn@grgblaw.com

Attorneys for Plaintiff

POST OFFICE ADDRESS:  
Two Plaza East, Suite 1170  
330 East Kilbourn Avenue  
Milwaukee, Wisconsin 53202  
Telephone: 414/271-1440

DOCUMENT DRAFTED BY  
NATIONAL TRIAL COUNSEL  
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1339 County Road D East  
Maplewood, MN 55109  
(952) 426-7373 - Phone  
bob@roberthilllaw.com  
*civil/Menard-Manitowoc/p/complaint 2016-09-15*

# Paradigm

July 13, 2016

Via Certified Mail

Ms. Jennifer Hudon  
City Clerk  
City of Manitowoc  
900 Quay St.  
Manitowoc, WI 54220

**Re: 2016 Request for Waiver of Board of Review(BOR) Hearing**  
Menard Inc.  
5120 Calumet Ave.  
Manitowoc, WI 54220  
Manitowoc County  
Permanent Index Number(s): 835-203-011

Dear Ms Hudon;

Please find the enclosed and completed, Request for Waiver of Board of Review(BOR) Hearing form, as well as the Objection Form for Real Property Assessment.

We would like to waive the hearing of the attached objection, for the above referenced property. We represent the client, Menard, Inc., who owns the property.

If the Waiver of Hearing is denied, we would like to request a telephone hearing with the Board of Review.

Please let me know if you have any questions or require additional information.

Respectfully submitted,

Paradigm Tax Group

*Brendan Douylliez*

Brendan Douylliez  
*Managing Consultant*

Phone: 312-252-0322  
Email: bdouylliez@paradigmtax.com

Attachments





## 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 1<sup>st</sup> 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)."

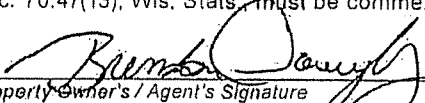
**NOTE: The legal requirements of the Notice of Intent to Appear must be satisfied and the Objection Form must be completed and submitted as required by law prior to the Request for Waiver of Board of Review Hearing being submitted.**

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

Municipality <b>Manitowoc, WI</b>	County <b>Manitowoc</b>
Property owner's name <b>Menard, Inc.</b>	Agent name (if applicable)* <b>Brendan J. Douylliez - Paradigm Tax Group</b>
Owner's mailing address <b>5101 Menard Drive, Eau Claire, WI 54703</b>	Agent's mailing address <b>30 N. La Salle St. Suite 3520, Chicago, IL 60602</b>
Owner's telephone number <b>( 715 ) 876 - 2297</b>	Agent's telephone number <b>( 312 ) 252 - 0322</b>
<input checked="" type="checkbox"/> Land Line <input type="checkbox"/> Cell Phone	<input checked="" type="checkbox"/> Land Line <input type="checkbox"/> Cell Phone
Owner's email address <b>dmichlig@menard-inc.com</b>	Agent's email address <b>bdouylliez@paradigmatx.com</b>

Property address <b>5120 Calumet Ave., Manitowoc, WI 54220</b>	
Legal description or parcel number <b>Parcel Number: 835-203-011</b>	
Taxpayer's assessment as established by assessor - Value as determined due to waiving of BOR hearing <b>\$ 8,729,800</b>	
Property owner's opinion of value <b>\$ 5,900,000</b>	
Basis for request <b>Pending matters in Circuit Court. 2014 and 2015 were filed in Circuit Court and are currently in mediation.</b>	
Date Notice of Intent to Appear at BOR was given <b>07 - 12 - 2016</b>	Date Objection Form was completed and submitted <b>07 - 13 - 2016</b>

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., or a claim for excessive assessment under sec. 74.37, Wis. Stats. All parties understand any action under sec. 70.47(13), Wis. Stats., must be commenced within 60 days of the receipt of the notice of the waiving of the hearing.

  
 \_\_\_\_\_  
 Property Owner's / Agent's Signature

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

### Decision

Approved       Denied

Reason \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
 Board of Review Chairperson's Signature

\_\_\_\_\_  
 Date

Taxpayer advised \_\_\_\_\_  
 \_\_\_\_\_  
 Date

## Objection to Real Property Assessment

To file an appeal on your property assessment, you must provide the Board of Review (BOR) clerk written or oral notice of your intent, under state law (sec. 70.47(7)(a), Wis. Stats.). You must also complete this entire form and submit it to your municipal clerk. To review the best evidence of property value, see the Wisconsin Department Revenue's *Property Assessment Appeal Guide for Wisconsin Real Property Owners*.

**Complete all sections:**

<b>Section 1: Property Owner / Agent Information</b>				* If agent, submit written authorization with this form			
Property owner name (on changed assessment notice) <b>Menard, Inc.</b>			Agent name (if applicable) <b>Brendan J. Douylliez - Paradigm Tax Group</b>				
Owner mailing address <b>5101 Menard Drive</b>			Agent mailing address <b>30 N. La Salle St. Suite 3520</b>				
City <b>Eau Claire</b>	State <b>WI</b>	Zip <b>54703</b>	City <b>Chicago</b>	State <b>IL</b>	Zip <b>60602</b>		
Owner phone <b>(715) 876 - 2297</b>		Email <b>dmichlig@menard-inc.com</b>		Owner phone <b>(312) 252 - 0322</b>		Email <b>bdouylliez@paradigmatx.com</b>	

<b>Section 2: Assessment Information and Opinion of Value</b>		
Property address <b>5120 Calumet Ave.</b>		Legal description or parcel no. (on changed assessment notice) <b>Parcel Number: 835-203-011</b>
City <b>Manitowoc</b>	State <b>WI</b>	Zip <b>54220</b>
Assessment shown on notice - Total <b>\$ 8,729,800</b>		Your opinion of assessed value - Total <b>\$ 5,900,000</b>

If this property contains non-market value class acreage, provide your opinion of the taxable value breakdown:

Statutory Class	Acres	\$ Per Acre	Full Taxable Value
Residential total market value			
Commercial total market value			8,729,800
Agricultural classification: # of tillable acres		@ \$ acre use value	
# of pasture acres		@ \$ acre use value	
# of specialty acres		@ \$ acre use value	
Undeveloped classification # of acres		@ \$ acre @ 50% of market value	
Agricultural forest classification # of acres		@ \$ acre @ 50% of market value	
Forest classification # of acres		@ \$ acre @ market value	
Class 7 "Other" total market value		market value	
Managed forest land acres		@ \$ acre @ 50% of market value	
Managed forest land acres		@ \$ acre @ market value	

<b>Section 3: Reason for Objection and Basis of Estimate</b>	
Reason(s) for your objection: (Attach additional sheets if needed) <b>Property over-assessed, based on appraisal. 2014 and 2015 currently in mediation.</b>	Basis for your opinion of assessed value: (Attach additional sheets if needed) <b>2014 Appraisal, as well as recent appraisals of other Menard's stores throughout Wisconsin.</b>

**Section 4: Other Property Information**

A. How was this property acquired: (check the box that applies)  Purchase  Trade  Gift  Inheritance  
 Acquisition price \$ 2,318,364 Date 02-01-1999 *Land Purchase Estimate*  
(mm-dd-yyyy)

B. Were there any changes made to this property (ex: improvement, remodeling, addition) since acquiring it?  Yes  No  
 If Yes, describe Store Remodel  
 Date of changes 03-08-2011 Cost of changes \$ 3,231,907 Does this cost include the value of all labor (including your own)?  Yes  No  
(mm-dd-yyyy)

C. During the last five years, was this property listed/offered for sale?  Yes  No  
 If Yes, how long was the property listed (provide dates) \_\_\_\_\_ to \_\_\_\_\_  
(mm-dd-yyyy) (mm-dd-yyyy)  
 Asking price \$ \_\_\_\_\_ List all offers received \_\_\_\_\_

D. Was this property appraised within the last five years?  Yes  No  
 If Yes, provide: Date 01-01-2014 Value 5,900,000 Purpose of appraisal Fee simple valuation  
(mm-dd-yyyy)

If this property had more than one appraisal, provide the requested information for each appraisal. \_\_\_\_\_

**Section 5: BOR Hearing Information**

A. If you are requesting that a BOR member(s) be removed from your hearing, provide the name(s): \_\_\_\_\_  
**Note:** This does not apply in first or second class cities.

B. Provide a reasonable estimate of the amount of time you need at the hearing 30 minutes.

Property owner or Agent signature 	Date (mm-dd-yyyy) <b>07-13-2016</b>
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## Request to Testify by Telephone or Submit a Sworn Written Statement at the Board of Review (BOR)

Section 70.47(8), Wis. Stats., states "...Instead of appearing in person at the hearing, the board may allow the property owner, or the property owner's representative, at the request of either person, to appear before the board, under oath, by telephone or to submit written statements, under oath, to the board. ..."

**NOTE: The legal requirements of the Notice of Intent to Appear at the BOR must be satisfied and the Objection Form must be completed and submitted to the BOR as required by law prior to the Request to Testify by Telephone or Submit Sworn Written Statement form being submitted.**

Municipality Manitowoc, WI	County Manitowoc
Property owner's name Menard, Inc.	Agent name (if applicable) Brendan J. Douylliez - Paradigm Tax Group
Owner's mailing address 5101 Menard Drive, Eau Claire, WI 54703	Agent's mailing address 30 N. La Salle St. Suite 3520, Chicago, IL 60602
Owner's telephone number ( 715 ) 876 - 2297 <input checked="" type="checkbox"/> Land Line <input type="checkbox"/> Cell Phone	Agent's telephone number ( 312 ) 252 - 0322 <input checked="" type="checkbox"/> Land Line <input type="checkbox"/> Cell Phone
Owner's email address dmichlig@menard-inc.com	Agent's email address bdouylliez@paradigmatx.com


Please provide the following information on the property and the assessment to which you are objecting. (Attach additional sheets, if necessary.)

1. Property address 5120 Calumet Ave., Manitowoc, WI 54220
2. Legal description or parcel number from the current assessment roll Parcel Number: 835-203-011
3. Total Property Assessment \$ 8,729,800
4. If agent, attach signed Agent Authorization form, PA-105

Testify by telephone\*       Submit sworn written statement

Basis for request Pending matters in Circuit Court. 2014 and 2015 are in currently in mediation. We will be requesting a waiver of the hearing.

\* If the request is approved, provide the best telephone number to reach you ( 312 ) 252 - 0322

Owner's or Agent's signature 	Date 07 - 13 - 2016
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### For Board Use Only

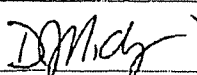
Approved       Denied

Reason \_\_\_\_\_

Taxpayer advised \_\_\_\_\_  
Date \_\_\_\_\_

## Agent Authorization – Property Assessment

(Please print or type)

<b>Part 1</b> Property Owner's Name		Spouse Name	Date
MENARD, INC.			7/6/16
Property Owner's Address (number and street)		Spouse Address (if different from taxpayer)	Telephone Number – Daytime
5101 MENARD DR.			(715) 876-2297
City, State, and Zip Code		City, State, and Zip Code	E-mail Address
Eau Claire, WI 54703			dmichigemenard-inc.com
Parcel number	Parcel Address		
835-203-011	5100 CALUMET AVE, MANITOWOC, WI 54220		
Personal Property Account Name:			
<b>Part 2</b> I hereby authorize the following individual(s) to act as my agent to represent me in property tax assessment matters concerning the property specified above.			
Name		Address	Telephone Number
Brendan Douylliez		Paradigm Tax Group - 30 N. La Salle St #3500 Chicago, IL 60602	(312) 252-0300
Nicholas Hunter		Paradigm Tax Group - 30 N. La Salle St #3500 Chicago, IL 60602	(312) 252-0321
<b>Part 3</b> This authorization expires: <input type="checkbox"/> MM / DD / YYYY <input checked="" type="checkbox"/> Does not expire until I revoke it in writing			
I understand, agree and accept:			
<ul style="list-style-type: none"> <li>• The assessor's office may divulge any information it may have on file concerning this property.</li> <li>• My agent has the authority and my permission to accept a subpoena concerning this property on my behalf.</li> <li>• I will provide all information I have that will assist in the discussion and resolution of any assessment appeal of this property.</li> <li>• Signing this document does not relieve me of personal responsibility for timely reporting changes to my property and paying taxes, or penalties for failure to do so, as provided under Wisconsin tax law.</li> <li>• A photocopy and/or faxed copy of this completed form has the same authority as a signed original.</li> <li>• If signed by a corporate officer, partner, or fiduciary on behalf of the taxpayer, I certify that I have the power to execute this Agent Authorization form.</li> </ul>			
<b>Part 4</b> Send notices and other written communications to: <input checked="" type="checkbox"/> Authorized Agent OR <input type="checkbox"/> Property Owner			
<p>► I understand, agree, and accept:</p> <p>If the Authorized Agent box is checked, any notices and written communications will be sent to only the Authorized Agent, except as required by statute. If the property owner box is checked, any notices and written communications will be sent to only the property owner. If no box is checked or both boxes are checked, any notices and written communications will be sent only to the property owner.</p>			
<b>Part 5</b>			
Signature	Title	Date	
	Tax Manager	7/12/16	
Signature	Title	Date	
This authorization is not valid unless signed by the individual(s), corporate officer, partner or fiduciary.			

**Letter of Authorization**

To: Ad Valorem Tax Authorities and Others To Whom It May Concern

This letter will introduce the accounting firm of PARADIGM TAX GROUP, which is authorized to represent us concerning Ad Valorem Taxes on real property assessments during 2016. This authorization letter will supersede any previous letters of authorization on file.

PARADIGM TAX GROUP is authorized to file real estate returns, to review and receive copies of any prior tax year's tax returns, to investigate appraisals and assessments, to submit income and expense information, to appeal property values and assessments, to receive tax bills, to appear before administrative boards or agencies, and to prepare to take such actions in our offices as necessary to effectuate same. PARADIGM TAX GROUP is authorized to act as agent, and/or attorney in fact, with those aforementioned rights on the property owned or controlled by the undersigned entity.

The rights, powers, and authorization of PARADIGM TAX GROUP herein granted shall commence upon the execution of this letter of authorization and shall terminate upon written notification indicating otherwise.

IN WITNESS WHEREOF:

The undersigned has hereunto set our hands and affixed our seals this the 28 day of January, 2016.

ACCEPTED:

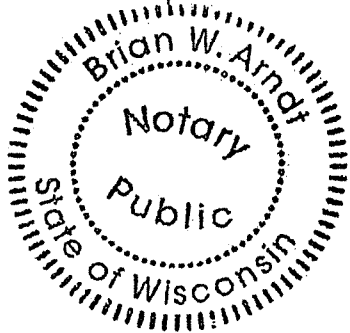
*D. Michlig*  
Signature

Signed, sealed, and delivered in the presence of:

*B. W. Arndt*

Notary Public

*My commission expires 12/31/2016*



By: Menard, Inc.

Print Name: Daniel J Michlig

Title: Tax Manager

Date: 1/28/2016

Telephone Number: (715) 816-2297

# CITY OF MANITOWOC

WISCONSIN, USA  
www.manitowoc.org



MENARD  
5120 CALUMET

July 22, 2016

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Menard, Inc.  
5101 Menard Dr.  
Eau Claire, WI 54703

✓ Brendan J. Douylliez  
Paradigm Tax Group  
30 N. LaSalle St., Ste. 3520  
Chicago, IL 60602

RE: Request for Waiver of Board of Review Hearing  
Parcel 835-203-011 – Menard, Inc.

Gentlemen:

Your request for waiver of Board of Review Hearing was approved by the Board of Review on July 21, 2016.

Very truly yours,

JENNIFER HUDON  
City Clerk/Deputy Treasurer

Enclosure

cc: City Attorney Kathleen McDaniel  
City Assessor

Jennifer Hudon, MPA, City Clerk/Deputy Treasurer  
CITY HALL • 900 Quay Street • Manitowoc, WI 54220-4543  
Phone (920) 686-6950 • Fax (920) 686-6959 • jhudon@manitowoc.org

