

Jun 6-16-14

14-1247

STATE OF WISCONSIN

CIRCUIT COURT

MANITOWOC COUNTY

CVS PHARMACY, INC.,
One CVS Drive
Woonsocket, RI 02895

FILED

MAY 30 2014

RECEIVED

JUN -4 2014

CITY CLERKS OFFICE

Plaintiff,

CLERK OF CIRCUIT COURT
MANITOWOC COUNTY, WI

v.

Case No.: 14 CV 247

Case Code: 30301

(Money Judgment: > \$10,000)

[Handwritten signature and date: 6/16/14]

CITY OF MANITOWOC,
900 Quay Street,
Manitowoc, Wisconsin 54221-1597,

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 1010 South 8th Street, Manitowoc, WI 54220, and to Attorney Christopher L.

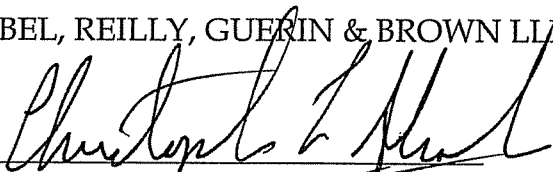
Strohbehn of Gimbel, Reilly, Guerin & Brown LLP, plaintiff's attorney, whose address is Two Plaza East, Suite 1170, 330 East Kilbourn Avenue, Milwaukee, Wisconsin 53202. You may have an attorney help or represent you.

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 29th day of May, 2014.

GIMBEL, REILLY, GUERIN & BROWN LLP

By:



CHRISTOPHER L. STROHBEHN

State Bar No. 1041495

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civ/cvs-manitowoc/p/summonsKAK2014-05-29

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Plaintiff,

CLERK OF CIRCUIT COURT
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Case No.: 14 CV 247
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(Money Judgment: > \$10,000)

CITY OF MANITOWOC,
900 Quay Street,
Manitowoc, Wisconsin 54220,

Defendant.

COMPLAINT

Plaintiff CVS Pharmacy, Inc. ("CVS"), by its undersigned counsel, Gimbel, Reilly, Guerin & Brown LLP, for its complaint against defendant City of Manitowoc ("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 CVS by the City for the year 2013, plus statutory interest, with respect to the parcel of real property in the City known as parcel # 520-035-020 ("the Property").

2. CVS is a Rhode Island corporation duly registered to conduct business in Wisconsin. CVS 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 in the City.

4. The Property is located at 701 East Reed Avenue within the City.

Background Facts

5. For 2013, property in the City was assessed at 106.6686% of its fair market value as of January 1, 2013, and was taxed at \$21.10244 per \$1,000 of assessed value.

6. The 2013 assessment of the property was set by the City Assessor's office at \$2,650,000.

7. CVS timely filed an objection to the 2013 assessment of the Property with the City's Board of Review pursuant to WIS. STAT. §70.47. The Board approved the assessment at \$2,650,000 without a hearing.

8. Based on this assessment, the City imposed a tax of \$55,869.36 on the Property.

9. On January 15, 2014, CVS timely served on the City Clerk a Claim for Excessive Assessment pursuant to WIS. STAT. §74.37(2) ("Claim") challenging the 2013 assessment of the Property.

10. CVS timely paid the first installment of its 2013 property taxes as assessed and satisfied all other conditions for filing the 2013 Claim.

11. On or about March 5, 2014, the City's Clerk sent a letter to CVS, by certified mail, stating that the Common Council of the City considered the Claim on March 3, 2014 and disallowed the Claim in its entirety.

First Claim for Relief - Refund of Excessive Taxes

12. The allegations of paragraphs 1-11 are incorporated as if fully re-alleged herein.

13. The fair market value of the Property as of January 1, 2013 was no higher than \$1,600,000.00

14. Based on the applicable assessment ratio of 106.6686%, the assessed value should be no higher than \$1,706, 607.60. Applying the tax rate of \$21.10244 per \$1,000 of assessed value, described in paragraph 5, the correct amount of property tax on the Property for 2013 is no higher than \$36,015.42.

15. The 2013 assessment of the Property was excessive. As a result, the property tax imposed on the Property for 2013 was excessive in at least the amount of \$19,853.94.

16. Upon information and belief, the 2013 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.

17. CVS is entitled to a refund of 2013 tax in the amount of \$19,853.94, or such greater amount as may be determined to be due to CVS, plus statutory interest.

Second Claim for Relief - Declaratory Judgment

18. The allegations of paragraphs 1-17 are incorporated as if fully re-alleged herein.

19. As alleged above, the City's Board of Review denied CVS's objection to the assessment.

20. The Board of Review conducted no hearing on CVS's objection, thereby denying CVS its right to be heard and to present witnesses, contrary to WIS. STAT. §70.47. Neither the Board of Review nor any interested party executed a waiver of such a hearing.

21. An actual and justiciable controversy exists as to CVS's right to a hearing and whether the City's Board of Review's failure to provide that hearing violated the procedures set forth in WIS. STAT. §70.47.

22. CVS seeks declaratory judgment construing WIS. STAT. §70.47 to mandate a hearing on every objection absent a written notice waiving the right to a hearing.

23. If the Court rules that a hearing was mandated, CVS seeks an order remanding this matter to the Board for a full hearing.

WHEREFORE, plaintiff CVS Pharmacy, Inc. seeks the following relief:

A. A determination that the fair market value of the Property as of January 1, 2013 was no higher than \$1,706,697.60.

B. Judgment in the amount of \$19,853.94, or such greater amount as may be determined due to CVS, plus statutory interest;

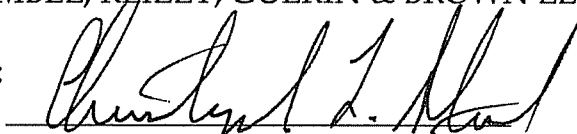
C. In the alternative, declaratory judgment determining that the City's Board of Review improperly denied CVS a hearing under WIS. STAT. §70.47, and an order remanding this matter for such a hearing.

D. An award of all litigation costs incurred by CVS in this action, including the reasonable fees of its attorneys; and E. Any such other and further relief as the Court deems appropriate and just.

Dated this 29th day of May, 2014.

GIMBEL, REILLY, GUERIN & BROWN LLP

By:



CHRISTOPHER L. STROHBEHN

State Bar No. 1041495

cstrohbahn@grgblaw.com

Attorneys for Plaintiff

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