

STATE OF WISCONSIN

CIRCUIT COURT

MANITOWOC

WALGREEN CO. vs. CITY OF MANITOWOC

Electronic Filing Notice

FILED 10-27-2023 Clerk of Circuit Court Manitowoc County, WI 2023CV000391

Case No. 2023CV000391 Class Code: Money Judgment

CITY OF MANITOWOC 900 QUAY STREET MANITOWOC WI 54220

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CITY CLERKS OFFICE

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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 920-683-4030.

Manitowoc County Circuit Court Date: October 27, 2023

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STATE OF WISCONSIN  
CIRCUIT COURT  
MANITOWOC COUNTY

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WALGREEN CO.,  
104 Wilmot Road, MS #3301  
Deerfield, Illinois 60015

Plaintiff,

v.

Case No. \_\_\_\_\_  
Money Judgment - 30301

CITY OF MANITOWOC,  
900 Quay Street  
Manitowoc, Wisconsin 54220

Defendant.

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**SUMMONS**

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STATE OF WISCONSIN:

To each entity named above as 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 or electronically filed with the Court, whose address is 1010 S 8<sup>th</sup> Street, Manitowoc, Wisconsin 54220, 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 27<sup>th</sup> day of October, 2023.

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

**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  
Olivia J. Schwartz  
State Bar ID No. 1115787  
Attorneys for Plaintiff

STATE OF WISCONSIN  
CIRCUIT COURT  
MANITOWOC COUNTY

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**COMPLAINT**

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Plaintiff Walgreen Co. ("Plaintiff"), by its undersigned counsel, Reinhart Boerner Van Deuren s.c., for its Complaint against the 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), seeking a refund of excessive real estate taxes imposed on Plaintiff by the City for tax year 2023, plus statutory interest, with respect to a parcel of real property located in the City (the "Property").
2. Plaintiff is the sole tenant of the Property and 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 900 Quay Street, in the City.

4. The Property is located at 2702 Calumet Avenue within the City and is identified in the City records as Tax Parcel No. 052-158-000-031.

### **JURISDICTION AND VENUE**

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

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

### **BACKGROUND FACTS**

#### ***2023 Assessment - Background Facts***

7. The aggregate ratio of property assessed in the City as of January 1, 2023 has not been determined as of the date of filing.

8. For 2022, property tax was imposed on property in the City at the rate of \$19.427890 per \$1,000 of assessed value for the Property.

9. For 2023, the City's assessor set the assessment of the Property at \$3,852,700.

10. Plaintiff appealed the 2023 assessment of the Property by filing a timely objection with the City's Board of Review pursuant to Wis. Stat. § 70.47 and otherwise complying with all of the requirements of Wis. Stat. § 70.47, except Wis. Stat. § 70.47(13).

11. By virtue of waiving the hearing pursuant to Wis. Stat. § 70.47(8m) the Board of Review sustained the 2023 assessment on the merits without hearing at \$3,852,700. A true and correct copy of the 2023 Notice Waiving the Hearing is attached hereto as **Exhibit A** and is incorporated herein by reference.

12. Assuming the 2023 mill rate will be essentially the same as the 2022 mill rate, the City will impose tax on the Property in the approximate amount of \$74,850.

13. Plaintiff will timely pay the property taxes imposed by the City on the Property for 2023, or the required installments thereof.

**CLAIM FOR RELIEF**

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

***2023 Assessment - Claim for Relief***

15. The fair market value of the Property as of January 1, 2023 is no higher than \$2,447,400.

16. Assuming an aggregate ratio of 100%, the correct assessment of the Property for 2023 is no higher than \$2,447,400.

17. Based on the 2022 tax rate of \$19.427890 per \$1,000 of assessed value, the correct amount of property taxes on the Property for 2023 is no higher than \$47,548.

18. The 2023 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 2023 may be excessive in at least the amount of \$47,548.

19. Upon information and belief, the City will take the position that the assessment of property in the City is at market values 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.

20. Plaintiff is entitled to a refund of 2023 tax in the amount of at least \$47,548, 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 2023 should be no higher than \$2,447,400.

B. A determination that the correct tax on the Property for 2023 should be no higher than \$47,548.

C. Judgment in the amount of \$27,302 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

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

Dated this 27<sup>th</sup> day of October, 2023.

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 2023  
Madison, WI 53701-2023

**Electronically signed by Don M. Millis**

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State Bar ID No. 1015755  
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State Bar ID No. 1076539  
Shawn E. Lovell  
State Bar ID No. 1079801  
Olivia J. Schwartz  
State Bar ID No. 1115787  
Attorneys for Plaintiff

50668437



# CITY OF MANITOWOC

WISCONSIN, USA

[www.manitowoc.org](http://www.manitowoc.org)

October 6, 2023

Don Millis  
[dmillis@reinhardtlaw.com](mailto:dmillis@reinhardtlaw.com)

Via E-Mail

Walgreen Co.  
104 Wilmot Road, MS #3301  
Deerfield, IL 60015

Don Millis, Sara Rapkin, Shawn Lovell and Karla Nettleton  
Reinhart Boerner Van Deuren s.c.  
22 E. Mifflin Street, Suite 700  
Madison, WI 53703

Certified Mail/Return Receipt Req.

RE: Parcel #158-000-031  
2702 Calumet Ave.

Dear Property Owner/Agent:

Your request for waiver of Board of Review Hearing was approved by the Board of Review on October 5, 2023.

Very truly yours,

Mackenzie Reed  
City Clerk, Secretary  
Board of Review

Mr

cc: Interim City Attorney Eric Nycz  
City Assessor





