

**LRB-RESEARCH AND ANALYSIS SECTION**

**JUDICIARY & LEGISLATION COMMITTEE**

**JANUARY 12, 2009**

**ITEM 10, FILE # 081161**

File # 081161 is a resolution appropriating up to \$850,000 from the 2009 Common Council Contingent Fund to the Remission of Taxes Fund for settlement of a lawsuit by Walgreen Co. against the City of Milwaukee.

**Background**

1. Walgreen Co. has brought suit against the City of Milwaukee for overpayment of taxes paid in 2006 and 2007 arguing that tax assessments on store properties were in error.
2. On July 8, 2008, the Wisconsin Supreme Court decided the case of *Walgreen Co. v. City of Madison* (Docket No. 2006AP1859) in favor of Walgreen Co. The Supreme Court held that assessment of Walgreen's stores should not be based upon the amount of Walgreen's lease payments, which were higher than market value, but upon actual comparative fair market property values. The business model relied upon by Walgreen's is based upon an agreement with developers to include development, construction and all related costs into future lease agreements with the developers. This resulted in higher lease payments and tax assessments than comparable retail properties.
3. Walgreen Co. has filed actions and claims against a number of Wisconsin municipalities based upon the same arguments that succeeded in the Supreme Court. State legislation is now being sought to effectively reverse the Court's decision.
4. The Assessor's Office advises that only one other similar claimant has come to their attention, the Valvoline Instant Oil Change company.

**Discussion**

1. The 2009 Remission of Taxes Fund Special Purpose Account budget provides an amount of \$1,000,000 of which nearly \$887,000 has already been committed by files 081054 and 081055.
2. The 2009 Common Council Contingent Fund Special Purpose Account budget provides an amount of \$5,000,000. The comptroller advises that, as of January 9, 2009, the balance in the 2008 Common Council Contingent Fund was \$1,268,349.

**Fiscal Impact**

1. The appropriation of up to \$850,000 from the Common Council Contingent Fund to the Remission of Taxes Fund will not have an impact on the tax levy.

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