

LRB-RESEARCH AND ANALYSIS SECTION

JUDICIARY AND LEGISLATION COMMITTEE	FEBRUARY 2, 2009	ITEM 9, FILE # 081289
FINANCE & PERSONNEL COMMITTEE	FEBRUARY 4, 2009	ITEM 5, FILE # 081289

The resolution in File # 081289 authorizes appropriation of up to \$174,647.95 from the 2009 Common Council Contingent Fund to the Remission of Taxes Fund for settlement of three lawsuits against the City of Milwaukee relating to 2006, 2007 and 2008 tax assessments.

Background

1. The following legal actions were brought against the City in the Milwaukee County Circuit Court alleging excessive assessment of properties for the tax years 2006, 2007 and 2008 under the provisions of s. 74.37, Wis. Stats., providing an alternative to the administrative appeal process before the Board of Review under s. 70.46, Wis. Stats., and s. 307-4 of the Code:
 - Metropolitan Associates v. City (Docket No. 07CV14475)
 - Granville Holding v. City (Docket No. 07CV14477)
 - Northland Apartments v. City (Docket No. 07CV14471)
2. The claim process provided in s. 74.37, Wis. Stats., was made applicable to jurisdictions in Milwaukee County in 2001 as a result of a decision of the Wisconsin Supreme Court striking down an exception in the law for jurisdictions in a county with a population of 500,000 or more.
3. Legislation will be proposed in the 2009-2010 session of the Wisconsin Legislature in an effort to limit the ability of claimants to bypass administrative appeals initiating direct actions in court challenging assessments. The legislation has previously been introduced but was not acted upon before the close of the last legislative session. The Intergovernmental Relations Division-Department of Administration is working on this initiative.

Discussion

1. Settlement discussions between the parties resulted in concessions on both sides. The City Attorney reports that the settlements are in amounts approximately 30% of the claimed overpayment of taxes, and together with interest, total up to 40% of the claimed overpayments.
2. The complexity and interaction of factors taken into account in commercial property assessments and the multiple methodologies that may be utilized, suggest that settlement in this case will not set a precedent for other retailers or retail chains.
3. It is generally conceded that the process of initiating and trying an action for excessive assessment in Circuit Court places more pressures and incentives on the City to settle cases as opposed to the former process.
4. The resolution appropriates up to \$174,627.95 from the Common Council Contingent Fund. The request is made due to the higher than anticipated 2009 demand on the Remission of Taxes Fund Special Purpose Account. An earlier

appropriation from the Contingent Fund to the Remission of Taxes Fund was made this year in settlement of claims brought by Walgreens for up to \$850,000 in resolution File # 81161.

5. The Comptroller's status report relating to the 2009 Common Council Contingent Fund finds that, as of January 30, 2009, an amount of \$4,150,000 remains available of the original \$5,000,000 appropriation.

Fiscal Impact

1. The settlement amount of up to \$174,627.95 will leave approximately \$3,975,000 in the Common Council Contingent Fund.

cc: Marianne Walsh
W. Martin Morics
Grant Langley
Vincent Moschella
Mary Reavy
Mark Nicolini

Prepared by Richard L. Withers
Legislative Reference Bureau
Ext 8532
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