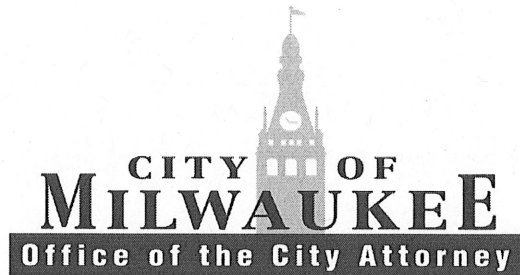


GRANT F. LANGLEY
City Attorney

MIRIAM R. HORWITZ
ADAM B. STEPHENS
MARY L. SCHANNING
JAN A. SMOKOWICZ
Deputy City Attorneys



Milwaukee City Hall Suite 800 • 200 East Wells Street • Milwaukee, Wisconsin 53202-3551
Telephone: 414.286.2601 • TDD: 414.286.2025 • Fax: 414.286.8550

SUSAN E. LAPPEN
PATRICIA A. FRICKER
HEIDI WICK SPOERL
GREGG C. HAGOPIAN
JAY A. UNORA
KATHRYN Z. BLOCK
KEVIN P. SULLIVAN
THOMAS D. MILLER
ROBIN A. PEDERSON
JEREMY R. MCKENZIE
PETER J. BLOCK
JENNY YUAN
ALLISON N. FLANAGAN
HEATHER H. HOUGH
ANDREA J. FOWLER
PATRICK J. MCCLAIN
NAOMI E. GEHLING
CALVIN V. FERMIN
BENJAMIN J. ROOVERS
ELLENY B. CHRISTOPOULOS
RACHEL S. KENNEDY
TYRONE M. ST. JUNIOR
HANNAH R. JAHN
JULIE P. WILSON
GREGORY P. KRUSE
KIMBERLY A. PRESCOTT
SHEILA THOBANI
KATRYNA C. RHODES
NICOLE F. LARSEN
JAMES M. CARROLL
WILLIAM G. DAVIDSON
MEIGHAN M. ANGER
ALEXANDER R. CARSON
JENNIFER J. TATE
Assistant City Attorneys

December 3, 2019

To the Honorable Common Council
of the City of Milwaukee
Room 205 – City Hall

Re: Resolution authorizing the denial of Saint John’s Communities
LLC’s claim of alleged unlawful tax
Common Council File No. 191313

Dear Council Members:

Enclosed please find a resolution recommending denial of the above-referenced claim, which we ask be introduced and referred to the Committee on Judiciary and Legislation with the following recommendation.

In the above-referenced claim, Saint John’s Communities LLC (“Saint John’s”), pursuant to Wis. Stat. § 74.35, seeks a refund of an alleged unlawful tax imposed on its property for tax year 2019 in the amount of approximately \$480,000. Saint John’s believes the tax was unlawfully imposed on its property because its newly constructed residential tower is exempt.

However, Saint John’s claim for unlawful tax is premature. Pursuant to Wis. Stat. § 74.35, a claim for unlawful tax may only be filed against the City if a taxpayer is “aggrieved by the levy and collection of an unlawful tax.” Wis. Stat. § 74.35(2)(a). Here, the City has not yet levied or collected any purported unlawful tax from Saint John’s for tax year 2019. Further, and also pursuant to Wis. Stat. § 74.35, “[n]o claim may be filed or maintained under this section [Wis. Stat. 74.35] unless the tax for which the claim is filed or any authorized installment payment of the tax, is timely paid.” Wis. Stat. § 74.35(5)(c). Here, again, because the City has not yet levied any tax for 2019, Saint John’s has not yet paid any tax for 2019. Pursuant to statute, Saint John’s claim cannot be filed or maintained.

In any event, even assuming Saint John’s claim was not deficient, Saint John’s newly constructed residential tower would be taxable for tax year 2019 because,




Honorable Common Council
December 3, 2019
Page 2


pursuant to Wis. Stat. § 70.11, Saint John's failed to timely file an application for exemption.

In consultation with the City Assessor, the City Attorney now recommends denial of Saint John's claim of alleged unlawful tax.

Very truly yours,



GRANT E. LANGLEY
City Attorney



ALLISON N. FLANAGAN
Assistant City Attorney

ANF/mal