

## LRB-RESEARCH AND ANALYSIS SECTION

JUDICIARY AND LEGISLATION COMMITTEE

ITEM 9, FILE # 061483

APRIL 2, 2007

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The resolution, in File # 061483 authorizes settlement of a lawsuit brought by Walgreen Company against the City alleging excessive assessments of 12 properties over a 4-year period. The settlement is in the amount of \$260,527.14 to be paid from the Remission of Taxes Fund.

### Background

1. Walgreen Company brought an action against the City in Circuit Court alleging excessive assessment of 12 properties for the tax years 2002 to 2005, 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.
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 the 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 was introduced late in the last session of the Wisconsin Legislature in an effort to limit the ability of claimants to bypass administrative appeals and initiate direct actions in court challenging assessments. The legislation was not acted upon before the close of the legislative session but is likely to be reintroduced. Negotiations are currently pending that include representatives of the City, the Wisconsin Association of Assessing Officers and others.
4. Assessment of commercial properties such as retail stores may involve a combination of approaches as described in the Wisconsin Property Assessment manual published by the Wisconsin Department of Revenue at Vol. 1, Ch. 9. Assessment of properties such as Walgreen stores prior to 2006 included consideration of market rent. Beginning in 2006, actual rent is a consideration and will likely produce higher values. Actual income is now also considered.

### Discussion

1. Settlement discussions between the parties resulted in concessions on both sides,
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 new pressures on the City to settle such cases.
4. Amounts of \$904,882 and \$1,055,344 were expended from the Remission of Taxes Fund in 2005 and 2006 respectively. An amount of \$500,000 was budgeted for the Fund in each of those years and is budgeted for the Fund in 2007.

### Summary of Fiscal Impact

1. The settlement amount of \$260,527.14 plus statutory interest will reduce the amount in the Remission of Taxes Fund by greater than half.

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March 30, 2007