

## LRB-RESEARCH AND ANALYSIS SECTION

FINANCE AND PERSONNEL COMMITTEE  
MARCH 12, 2008 - ITEM 8, FILE # 071452

FISCAL ANALYSIS

The resolution in File # 071452 authorizes payment of a court judgment against the City in a lawsuit brought by U. S. Bank alleging excessive assessments of properties at 10 sites over a 6-year period. The judgment is in the amount of \$440,430.03 plus interest after January 1, 2008, to be paid from the Remission of Taxes Special Purpose Account. An amount of \$460,000 is appropriated from the Common Council Contingent Fund and transferred to the Remission of Taxes Account to cover this expenditure.

### **Background**

1. U.S. Bank brought an action against the City in Circuit Court alleging excessive assessment of 10 properties for the tax years 2001 to 2006, under the provisions of s. 74.37, Wis. Stats., which provides 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 the result of a decision by the Wisconsin Supreme Court striking down an exception in the law for jurisdictions in a county with a population of 500,000 or more. In effect, this decision allowed the taxpayer a second opportunity to present a full case based upon evidence and arguments of law, if the taxpayer was dissatisfied with the decision of the City's Board of Review. Costs of litigation and the uncertainty of trial outcomes have resulted a substantial financial burden.
3. Assessment of commercial properties involves a combination of approaches as described in the Wisconsin Property Assessment manual published by the Wisconsin Department of Revenue at Vol. 1, Ch. 9. Various methods of determining value may result in divergent assessments. In the case of these 10 U.S. Bank branch sites, it was argued that certain types of bank fixtures and furniture, such as safe deposit boxes, have no commercial resale value.
4. New legislation passed the Wisconsin Legislature in January and is awaiting action by the Governor. This legislation, Enrolled 2007 Assembly Bill 580, limits the scope of judicial review in appeals to the Circuit Court from assessment determinations made by the board of review of a local taxing authority. Upon enactment, the legislation take effect prospectively, and will not affect objections to assessments for tax years 2001 to 2007.

### **Discussion**

1. The Assessor's Office and the City Attorney have concluded that an appeal from the Milwaukee County Circuit Court Judgment of October 4, 2007 in the matter of *U.S. Bank National Association v. City of Milwaukee*, Case No. 02-CV-7447, is not warranted.

- The Remission of Taxes Special Purposes Account (SPA) is used to reimburse taxpayers for taxes paid as the result of an assessment that is subsequently reduced. The amount budgeted for the Remission of Taxes SPA in each of the last 10 years has been \$500,000. Expenditures in 9 of these 10 years have exceeded the budgeted amount, requiring transfers of funds, generally from the Common Council Contingent Fund. The following table summarizes expenditure experience for the Remission of Taxes SPA for 5 years.

Year	Budgeted	Expended
2003	\$500,000	\$2,979,356
2004	500,000	1,863,039
2005	500,000	904,882
2006	500,000	1,163,795
2007	500,000	621,717

The average annual expenditure from the Remission of Taxes SPA for the last 5 years has been \$1, 505,558. However, these expenditures have been trending substantially lower.

- The expenditure of \$440,430.03, plus statutory interest, from the Remission of Taxes Special Purpose Account will exhaust the account. Deputy City Attorney, Vincent Moschella, advised the Judiciary and Legislation Committee on March 10, 2008, that an additional 8 or 9 cases are pending in which taxpayers object to assessments and which may proceed under the s. 74.37, Wis. Stats.
- The Comptroller reported on March 7, 2008, that, in addition to the \$5,000,000 budgeted for the 2008 Common Council Contingent Fund, there is a balance of \$2,217,000 remaining within the account for the 2007 Common Council Contingent Fund.

#### Summary of Fiscal Impact

- Payment of \$440,430.03, plus statutory interest, from the 2008 Remission of Taxes SPA would exhaust the fund; therefore, due to pending claims, it is necessary to increase the account by a similar amount from the Common Council Contingent Fund.
- All amounts expended from the Common Council Contingent Fund and the Remission of Taxes SPA are on the Tax Levy.

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