

LRB-RESEARCH AND ANALYSIS SECTION

JUDICIARY AND LEGISLATION COMMITTEE

ITEM 10, FILE # 070003

APRIL 30, 2007

RICHARD L. WITHERS

The resolution, in File # 070003 authorizes settlement of a lawsuit brought by the Milwaukee Athletic Club against the City alleging excessive assessments for the years 2004 through 2006. The settlement is in the amount of \$59,773.46 plus statutory interest to be paid from the Remission of Taxes Fund.

Background

1. The Milwaukee Athletic Club brought an action against the City in Circuit Court alleging excessive assessment of its property at 758 N. Broadway for the tax years 2004 through 2006, under the provisions of s. 74.37, Wis. Stats. This section 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 by 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. Previously in 2007, settlement of a s. 74.37 action brought by Walgreen Company involved a payment of more than \$260,500 from the Remission of Taxes Fund. Additional s. 74.37 actions are pending.
5. Assessment of properties such as the Milwaukee Athletic Club 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. The goal of these approaches is to determine fair market value. Negotiations in the matter of the Milwaukee Athletic Club involved comparisons with sales of properties intended for condominium use.
6. The initial assessment values of the Milwaukee Athletic Club property for the years 2004, 2005 and 2006 were \$6,990,000, \$6,990,000 and \$8,877,400, respectively. Each year's assessment was challenged by the taxpayer. The new assessment value agreed upon by the parties for each of these 3 years is \$6,750,000.

Discussion

1. 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 does not set a precedent for other cases.
2. It is generally conceded that the process of initiating and trying an action for excessive assessment in Circuit Court places additional pressures on the City to settle.

3. 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 also budgeted for the Fund in 2007.

Summary of Fiscal Impact

1. The proposed settlement payment will reduce the Remission of Taxes Fund by \$59,773.46 plus statutory interest leaving less than \$180,000 of the 2007 budgeted amount.

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