

CITY OF MADISON, WISCONSIN

REPORT OF THE CITY ATTORNEY

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DATED: 3/10/2015

TO THE MAYOR AND COMMON COUNCIL:

RE: UNLAWFUL TAXATION: St. Raphael's Congregation - unlawful taxation - \$98,479.89.

Claimant St. Raphael's Congregation is seeking recovery of allegedly unlawful tax pursuant to Wis. Stat. § 74.35 for their property located at 204 West Main Street, the former location of the St. Raphael's Cathedral. The claim alleges they are exempt as a religious property. They are seeking the refund of \$98,479.89 for their 2014 taxes.

This property was previously exempt as a religious property prior to 2012. The property was destroyed by a fire in 2005 and the parcel was placed on the assessment roll in 2012 because it was a vacant lot not being used for religious purposes. In 2013, in Dane County Circuit Court 14CV1741, St. Raphael's Congregation sued the City claiming they were exempt pursuant to Wis. Stat. § 70.11(4)(a) as a religious property. The City moved to dismiss the action because St. Raphael's had not satisfied a necessary condition precedent prior to commencing the action as they had not submitted an application for exemption pursuant to Wis. Stat. § 70.11(intro). The Court granted the City's motion and the action was dismissed and St. Raphael's has not appealed.

The City Attorney and Assessor have consulted on this matter and have determined that the property does not satisfy the requirements for exemption, pursuant to Wis. Stat. § 70.11(4)(a) as a religious property. Property tax exemptions under this section require both property ownership and use and the information submitted by the claimant does not satisfy the use requirements of the property.

For the foregoing reasons, I recommend denial of the subject claim.

Note: This claim was received on January 14, 2015, and pursuant to Wis. Stat. § 74.35(3)(a) if no action is taken on these claims by the Common Council within ninety(90) days of filing the claim, it is considered disallowed.

Respectfully submitted,



Jaime L. Staffaroni
City Attorney