

AGENDA # \_\_\_\_\_

CITY OF MADISON, WISCONSIN

REPORT OF: <b>City Attorney</b>	PRESENTED _____
	REFERRED _____
TITLE: <b>Attic Angel Prairie Point, Inc.-- Claim for Refund of Excessive Taxes</b>	REREFERRED _____
	_____
AUTHOR: <b>Jaime Staffaroni Assistant City Attorney</b>	REPORTED BACK _____
	_____
DATED: <b>February 19, 2013</b>	ADOPTED _____ POF _____
	RULES SUSPENDED _____
	ID NUMBER _____

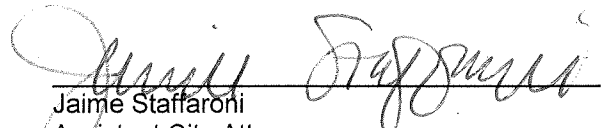
TO THE MAYOR AND COMMON COUNCIL:

RE: Attic Angel Prairie Point, Inc., 640 Junction Road, Madison, WI 53717  
Claim for Refund of Excessive Taxes  
Amount of Claim: 651,977.53  
Claim / Legistar No. 28914

The Claimant files this claim pursuant to several properties known as Attic Angel Prairie Point. The Claimant asserts that the property qualifies for a tax exemption for 2010 pursuant to Wis. Stat. § 70.11(4d) and files this claim pursuant to Wis. Stat. § 74.35 for recovery of unlawful taxes. Wis. Stat. § 70.11(4d) includes exemptions for benevolent retirement homes for the aged.

The staff of the City Assessor's office have reviewed the documentation available on this property and have determined that the properties are not "benevolent" as required by Wis. Stat. § 70.11(4d). In 2005 the Dane County Circuit Court determined that these properties did not satisfy the benevolent requirement under the statute which was a requirement for exemption. In 2010, the Claimant again filed for exemption and this time the Circuit Court agreed with the claim. The City has appealed that decision to the Court of Appeals. These issues are currently on appeal in the 4<sup>th</sup> District of the Wisconsin Court of Appeals case number 2012AP2095 for the 2010 real property taxes. If this claim is denied by the Council and is pursued by the Claimant, the City will have a second lawsuit in the Dane County Circuit Court for the 2012 taxes as the Claimant has also brought an action for the 2011 taxes under Case number 12CV1191. Until the legal status of the property is determined by the Court of Appeals, the City will preserve its right to tax the property by denying the exemption requests.

For the reasons stated above, I therefore recommend that the claim be denied.

  
Jaime Staffaroni  
Assistant City Attorney

JS:sob

NOTE: This claim was filed on January 23, 2013, and pursuant to Wis. Stat. § 74.35(3)(a), if no action is taken on this claim by the Common Council within ninety (90) days of the filing of the claim, it is considered disallowed.