

CITY OF MADISON, WISCONSIN

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**REPORT OF THE CITY ATTORNEY**

AUTHOR: Jaime L. Staffaroni

DATED: 2/27/2019

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TO THE MAYOR AND COMMON COUNCIL:

RE: UNLAWFUL TAXATION: M. Fleming, Murphy and Desmond, S.C., for St. Raphael's  
Congregation – Unlawful Taxation - \$25,177.06

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 their 2018 real property taxes of \$100,708.06.

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. The Claimant sued the City for the recovery of their 2014 and 2015 property taxes alleging that the property is exempt from taxation pursuant to Wis. Stat. § 70.11(4)(a) as a religious property. The City prevailed at the Wisconsin Court of Appeals and the court ruled the property was not exempt. Subsequently, the Wisconsin Legislature adopted Wis. Stat. § 70.11(4)(a)(2) which provided an exemption for the subject property for the first 25 years after the property was destroyed.

The property inadvertently remained on the tax roll for 2018 due to a clerical error. The City has granted the exemption for 2018 and has refunded the Claimants first installment payment. The City has paid the 2018 tax for the subject property and will apply to Department of Revenue for reimbursement.

Because the exemption has been granted for tax year 2018, I recommend denial of the subject claim.

Note: This claim was received on January 29, 2019, 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  
Assistant City Attorney