### CLAIM FOR AN EXCESSIVE ASSESSMENT PURSUANT TO WIS. STAT. § 74.37

In accordance with Wis. Stat. §§ 74.37(2)(b)(5) and 801.11(4), this claim is served on the Clerk of the City of Madison:

TO:

CITY OF MADISON

c/o City Clerk

210 Martin Luther King, Jr. Blvd.

Room 103

Madison, WI 53703

with a copy to:

CITY OF MADISON ASSESSOR 210 Martin Luther King, Jr. Blvd.

Room 101

Madison, WI 53703

n Personal ()Posted

Process Server:

Address of Service: RUDE

Forson grvod:

MADISON WASHINGTON ZC ESSENTIAL DST and HY-VEE, INC., by their attorneys, Stroud, Willink & Howard, LLC, hereby notify the City of Madison of their claim against the City of Madison, to the extent that such a claim may be required, and allege as follows:

#### **PARTIES INVOLVED**

- The City of Madison (hereinafter the "City") is a taxation district located in Dane County 1. with its municipal offices located at 210 and 215 Martin Luther King, Jr. Blvd. in Madison, Wisconsin.
- 2. The City of Madison Clerk (the "Clerk") is located at 210 Martin Luther King, Jr. Blvd, Room 103 in Madison, Wisconsin.
- 3. The City of Madison Assessor (the "Assessor") is located at 210 Martin Luther King, Jr. Blvd, Room 101 in Madison, Wisconsin.
- 4. Claimant HY-VEE, INC. ("Hy-Vee") is a foreign business corporation with its principal office located at 5820 Westown Parkway, West Des Moines, IA 50266.



- 5. Claimant MADISON WASHINGTON ZC ESSENTIAL DST ("Washington ZC") is a Delaware statutory trust with its principal office located at 2901 Butterfield Rd., Oak Brook, IL 60523.
- 6. Hy-Vee owns real estate identified as 3809 E. Washington Avenue, Madison, WI 53704, Parcel No. 251/0810-332-0919-0 (the "3809 E. Washington Property").
- 7. Washington ZC owns real estate identified as 3801 E. Washington Avenue, Madison, WI 53704, Parcel No. 251/0810-332-0909-1 (the "3801 E. Washington Property").
- 8. Washington ZC leases the 3801 E. Washington Property to Hy-Vee, pursuant to a lease agreement dated October 28, 2022 (the "Lease"), and Hy-Vee operates a grocery store in Madison located on the 3809 E. Washington Property and the 3801 E. Washington Property (collectively, the "Properties"). Washington ZC and Hy-Vee shall be collectively referred to herein as the "Claimant."
- 9. Pursuant to the Lease, Hy-Vee pays all taxes due to the City for the Properties.
- 10. J.W. Chatham and Associates (the "Agent") is the authorized agent of Claimant pursuant to the Agent Authorizations for Property Assessment Appeals attached hereto as <a href="Exhibit A">Exhibit A</a>.

### CIRCUMSTANCES GIVING RISE TO THE CLAIM AND INJURY

- 11. Claimant hereby incorporates by reference Paragraphs 1-10 above.
- 12. Sometime in 2023, the City reassessed the 3801 E. Washington Property and increased the real estate tax assessment to \$25,757,500.
- 13. Based on comparable market data, the fair market value of the 3801 E. Washington Property as of January 1, 2023, was no higher than \$7,527,400.
- 14. Sometime in 2023, the City also reassessed the 3809 E. Washington Property and increased the real estate tax assessment to \$593,000.
- 15. Based on comparable market data, the fair market value of the 3809 E. Washington Property as of January 1, 2023, was no higher than \$229,500.
- 16. On May 3, 2023, Claimant, by its Agent, filed an appeal of the assessments of the Properties and submitted its Objection to Real Property Assessment for the Properties (the "Objections"). True and correct copies of the Objections are attached hereto as Exhibit B.

- 17. On August 9, 2023, the Assessor notified Claimant that the Board of Assessors reviewed but did not change the assessment for the Properties.
- 18. On August 14, 2023, Claimant requested a Board of Review ("BOR") hearing on the assessments of the Properties.
- 19. A BOR hearing was held on October 17, 2023.
- 20. On October 17, 2023, the BOR issued the Notice of Board of Review Determination for the 3801 E. Washington Property. The BOR determined the 2023 Final Assessment for the 3801 E. Washington Property was \$25,757,500. Attached hereto as **Exhibit C** is a true and correct copy of the Determination for the 3801 E. Washington Property.
- 21. On October 17, 2023, the BOR also issued the Notice of Board of Review Determination for the 3809 E. Washington Property. The BOR determined the 2023 Final Assessment for the 3809 E. Washington Property was \$593,000. Attached as **Exhibit D** is a true and correct copy of the Determination for the 3809 E. Washington Property.
- 22. The 2023 taxes for the 3801 E. Washington Property are \$470,807.51, and the total taxes owed less credits are \$470,719.36.
- 23. On January 23, 2024, the Claimant made the first of the four installment tax payments in the amount of \$117,679.81.
- 24. The 2023 taxes for the 3809 E. Washington Property are \$10,839.13, and the total taxes owed less credits are \$10,750.98.
- 25. On January 23, 2024, the Claimant made the first of the four installment tax payments in the amount of \$2,687.70.
- 26. Pursuant to Wis. Stat. § 74.37(2), Claimant hereby files a written claim for an excessive assessment against the City.
- 27. Pursuant to Wis. Stat. § 74.37(3)(b), the City must notify Claimant via certified mail whether this claim is allowed or disallowed within 90 days after the claim is filed with the Clerk.
- 28. Pursuant to Wis. Stat. § 74.37(3)(d), if the City disallows the claim, Claimant may commence an action in circuit court to contest the excessive assessment.

#### **CLAIMS AND INJURY**

- 29. Claimant hereby incorporates by reference Paragraphs 1-28 above.
- 30. The value of the 3801 E. Washington Property as of January 1, 2023, was no higher than \$7,527,400.
- 31. The 2023 assessment of the 3801 E. Washington Property exceeded the fair market value of the property by \$18,230,100.
- 32. As a result, the 2023 real estate tax imposed on the 3801 E. Washington Property in the amount of \$470,807.51 was excessive.
- 33. Claimant is entitled to a refund of the 2023 real estate tax on the 3801 E. Washington Property in the estimated total amount of \$333,218.21, plus statutory interest.
- 34. The value of the 3809 E. Washington Property as of January 1, 2023, was no higher than \$229,500.
- 35. The 2023 assessment of the 3809 E. Washington Property exceeded the fair market value of the property by \$363,500.
- 36. As a result, the 2023 real estate tax imposed on the 3809 E. Washington Property in the amount of \$10,839.13 was excessive.
- 37. Claimant is entitled to a refund of the 2023 real estate tax on the 3809 E. Washington Property in the estimated total amount of \$6,644.22, plus statutory interest.

Dated this 31st day of January, 2024.

Respectfully submitted,

J.W. Chatam & Associates, as the agent of MADISON WASHINGTON ZC ESSENTIAL DST and HY-VEE, INC.

Name: Cabe Noller

Title: Agent

Drafted by:

Monica A. Wedgewood of Stroud, Willink & Howard, LLC State Bar No. 1095261
Attorney for Claimant
33 East Main Street, Suite 610
P.O. Box 2236
Madison, WI 53701-2236
(608) 257-2281

Madlson Hy-Vee #1

# **Agent Authorization**

Hy-Vee

for Property Assessment Appeals

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Madison Hy-Vee #1
Credit Union/Pad

# Agent Authorization

for Property Assessment Appeals

If an agent is representing the property owner or inunicipality, the property owner or municipality must provide prior written authorization for the agent to represent the company or municipality when contacting the reviewing authority.

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Wisconsin Department of Revenue

## **Objection to Real Property Assessment**

To file an appeal on your property assessment, you must provide the Board of Review (BOR) clerk written or oral notice of your Intent, under state law (sec. 70.47(7)(a), Wis. Stats.). You must also complete this entire form and submit it to your municipal clerk. To review the best evidence of property value, see the Wisconsin Department Revenue's Property Assessment Appeal Guide for Wisconsin Real Property Owners.

Complete all sections:									
Section 1: Property Owner / Ago					nt, submit written <u>auth</u>	orization (I	orm P	<u>A-105)</u> with	this form
MAYSON WASHINGTON ZE'ES	SENTIA	LD	TS C/O HY-VEE	Agent nam	e (If opplicable) Chatam & Associates,	Inc.			
Owner mailing address 5820 WESTOWN PKWY					Ing address 60 W. 96th Terrace				
City WEST DES MOINES State Zip		<sup>p</sup> 50266	City Len	exa		State ICS	Zlp 66215	5	
Owner phone ( 515 ) 267-2800 Email.	natam@jv	vch	atam.com	Owner pho	39-0990	Email jchata	m@jv	vchatam.co	m
Section 2: Assessment Informat	ion and	Opi	nion of Value			a again ta ann an ta a	4004		- 1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1
Property address 3801 E Washington Ave				Legal desc	ription or parcel no. (on cho	anged assess	ment no	tice)	
City Madison	State WI	ZI	<sup>P</sup> 53704		33209091				
Assessment shown on notice - Total \$:	25,757,50	0		Your opini	on of assessed value – Tota 67,527,400				
If this property contains non-market va	lue class	acre	eage, provide your	opinion o	f the taxable value bre	akdown:			
Statutory Class			Acres	I .	\$ Per Acre			Full Taxabi	e Value
Residential total market value									
Commercial total market value			]					\$7,527,4	00
Agricultural classification: # of tillable	acres			@	\$ acre use value				
# of pasture	acres			@	\$ acre use value				
# of special	ty acres			@	\$ acre use value				
Undeveloped classification # of acres				@	\$ acre @ 50% of m	arket valu	e		
Agricultural forest classification # of acr	es			@	\$ acre @ 50% of m	arket valu	e		
Forest classification # of acres				@	\$ acre @ market v	alue			
Class 7 "Other" total market value					market value				
Managed forest land acres				@	\$ acre @ 50% of m	narket valu	e		
Managed forest land acres				@	\$ acre @ market v	alue			
Section 3: Reason for Objection				a taga na Persanghay N			Sec.	ya religio se	
Reason(s) for your objection: (Attach add) Current County value is over mark	llonal sheet et. Evide	s If r	reeded) to be presented	Basis for y	your opinion of assessed arket Data	value: (Atto	ich add	litional sheets	: If needed)
at hearing.									
Section 4: Other Property Infor									A STOREGIS
A. Within the last 10 years, did you ac	quire the	proj	perty?	,				Yes	☐ No
If Yes, provide acquisition price \$		>5	Date -	<u> </u>	Purchase [	Trade		Gift 🗀	Inheritanc
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If Yes, how long was the property l	istea (prov	iue c	(nim-dd-yyy	y)	(mm-dd-yyyy)				
Asking price \$	L	ist a	all offers received						nter <sub>N</sub> .
D. Within the last five years, was this p									
If Yes, provide: Date			•	-	se of appraisal				
If this property had more than one	appraisal,								
Section 5: BOR Hearing Information							######################################		
A. If you are requesting that a BOR mo Note: This does not apply in first or se	cond class	citie	es.						
B. Provide a reasonable estimate of the	ie amoun	t of	time you need at t	he hearln	g minutes				
Property owner or Agent signature								'mm·dd·yyyy) -ひ <b>こ</b> - 2	02 e

PA-115A (R. 10-18)

## **Objection to Real Property Assessment**

To file an appeal on your property assessment, you must provide the Board of Review (BOR) clerk written or oral notice of your intent, under state law (sec. 70.47(7)(a), Wis. Stats.). You must also complete this entire form and submit it to your municipal clerk. To review the best evidence of property value, see the Wisconsin Department Revenue's Property Assessment Appeal Guide for Wisconsin Real Property Owners.

Complete all sections:									
Section 1: Property Owner / Age	nt Infor	nat	ion		t, submit written <u>autho</u>	rization (	Form Pa	<u> </u>	form
Property owner name (on changed assessment notice) HY-VEE Inc.			Agentname (If applicable) J.W. Chatam & Associates, Inc.						
Owner malling address 5820 WESTOWN PKWY				1	0 W. 96th Terrace				
City WEST DES MOINES State Zip			50266	City Lene	exa		State IKS	<sup>Zlp</sup> 66215	
Owner phone Email 15 ) 267-2800 Email 15h	ıtam@jv	cha	ıtam.com	Owner pho	39-0990	Email jchat	am@jw	chatam.com	
Section 2: Assessment Informati	on and	Opi	nion of Value				ang James	Telphone Consider	
Property address 3809 E Washington Ave				Legal descr	lption or parcel no. <i>(on cha</i>	nged asses:	sment no	tice)	
City Madison	State WI	Ziş	53704	08103	3209190				
Assessment shown on notice - Total 593	3,000			Your opinio	n of assessed value - Total				
If this property contains non-market val	ue class	acre	age, provide your			akdown:		•	
Statutory Class			Acres		\$ Per Acre			Full Taxable Va	lue
Residential total market value							L		
Commercial total market value							ئے ل	224.507	ゔつ
Agricultural classification: # of tiliable a	cres			@	\$ acre use value			- 19	
# of pasture	acres			@	\$ acre use value				
# of specialty	/ acres			@	\$ acre use value				
Undeveloped classification # of acres				@	\$ acre @ 50% of m	arket valu	ie		
Agricultural forest classification # of acre	5			@	\$ acre @ 50% of m	arket valu	le		
Forest classification # of acres				@	\$ acre @ market va	lue			
Class 7 "Other" total market value					market value			,,,,	
Managed forest land acres				@	\$ acre @ 50% of m	arket valu	ie		
Managed forest land acres				@	\$ acre @ market va	lue		<del>,</del>	
Reason for Objection Reason(s) for your objection: (Attach addition Current County value is over market at hearing.	onal sheet t. Evide	s if n nce	eeded) to be presented	Ma	our opinion of assessed v rket Data				eded)
Section 4: Other Property Inform	nation		rados productivas de la compositiva de La compositiva de la	e i de la deglis					0.0340
A. Within the last 10 years, did you acq If Yes, provide acquisition price \$ B. Within the last 10 years, did you cha If Yes, describe  IN TEX.	nge this	proj	Date	- m-dd-yyyy) I, addition)		Trade			No Pritance No
Date of Cost of changes (mm-dd-yyyy)	<u> </u>		Does this co	st Include t	he value of all labor (inc	luding yo	ur own)	? ☐ Yes ☐	∏ No
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Asking price \$	L	st a	II offers received		San				
D. Within the last five years, was this pr									No
If Yes, provide: Date			Ide the reguested		e of appraisal				
Section 5: BOR Hearing Informat	Jonasai,	3100	lae trie requesteu	THE THE THE	and a supplement	;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;;		ga ar var var var varge	
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Note: This does not apply in first or second.  B. Provide a reasonable estimate of the				the hearlno	mlnutes.				
Property owner or Agent signature		. 01 (	c you need at t	nearing	The state of the s			nm-dd-yyyy)	
2000								-03 - 202	
PA-115A (R. 10-18)							W	sconsin Department o	of Revenue

## Notice of Board of Review Determination

Under state law (sec. 70.47(12), Wis. Stats.), your property assessment for the current year 20<u>23</u> as finalized by the Board of Review (BOR) is listed below.

Property Owner	General Information
MADISON WASHINGTON ZC ESSENTIAL DTS C/O HY-VEE 5820 WESTOWN PKWY WEST DES MOINES IA 50266	Date issued 10-17-2023 Parcel no. 0810-332-0909-1 Address 3801 E WASHINGTON AVE Legal description
	☐ Town ☐ Village ☒ City  Municipality MADISON

Assessment Information										
<b>20</b> _23_ Origin	nal Asse	ssment	20 23 Final Assessment (determined by BOR)							
Land	\$	2,150,000	Land	\$	2,150,000					
Improvements	\$	23,607,500	Improvements	\$	23,607,500					
Personal property	\$		Personal property	\$						
Personal property	\$		Personal property	\$						
Personal property	\$		Personal property	\$						
Total personal property	\$	0	Total personal property	\$	0					
Total all property	\$	25,757,500	Total all property	\$	25,757,500					

# Appeal Information

If you are not satisfied with the BOR's decision, there are appeal options available. Note: Each appeal option has filing requirements. For more information on the appeal process, review the <u>Guide for Property Owners</u>.

### Appeal to:

**Department of Revenue (DOR)** – must file within 20 days after receipt of the BOR's determination notice or within 30 days after the date specified on the affidavit if there is no return receipt. A \$100 filing fee is required. It is not available for properties with an assessed value over \$1 million or properties located in first-class cities (Milwaukee). DOR may revalue the property any time before November 1 of the assessment year or within 60 days after receiving the appeal, whichever is later. If adjusted, the value is substituted for the original value and taxes paid accordingly. (sec. 70.85, Wis. Stats.)

Circuit Court - Action for Certiorari – must file within 90 days after receiving the determination notice. The Court decides based on the written record from the BOR. You cannot submit new evidence. (sec. 70.47(13), Wis. Stats.)

Municipality - Excessive Assessment – must first appeal to the BOR and have not appealed the BOR's decision to Circuit Court or to DOR. You cannot claim an excessive assessment under sec. 74.37, Wis. Stats., unless the tax is timely paid. A claim under section 74.37 must be filed with the municipality by January 31 of the year the tax is payable.

### Notice of Board of Review Determination

2023

Under state law (sec. 70.47(12), Wis. Stats.), your property assessment for the current year 20<u>23</u> as finalized by the Board of Review (BOR) is listed below.

Property Owner	General Information
HY-VEE INC 5820 WESTOWN PKWY WEST DES MOINES IA 50266	Date issued 10-17-2023 Parcel no. 0810-332-0919-0 Address 3809 E WASHINGTON AVE Legal description
	☐ Town ☐ Village ☒ City  Municipality MADISON

Assessment Information	n 🤲		20.22 Ft				
20 <u>23</u> Origir	nal Assess	ment	20_23 Final Assessment (determined by BOR)				
Land	\$	229,500	Land	\$	229,500		
Improvements	\$	363,500	Improvements	\$	363,500		
Personal property	\$		Personal property	\$			
Personal property	\$		Personal property	\$			
Personal property	\$		Personal property	\$			
Total personal property	\$	0	Total personal property	\$	0		
Total all property	\$	593,000	Total all property	\$	593,000		

### **Appeal Information**

If you are not satisfied with the BOR's decision, there are appeal options available. Note: Each appeal option has filing requirements. For more information on the appeal process, review the <u>Guide for Property Owners</u>.

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Circuit Court - Action for Certiorari – must file within 90 days after receiving the determination notice. The Court decides based on the written record from the BOR. You cannot submit new evidence. (sec. 70.47(13), Wis. Stats.)

Municipality - Excessive Assessment – must first appeal to the BOR and have not appealed the BOR's decision to Circuit Court or to DOR. You cannot claim an excessive assessment under sec. 74.37, Wis. Stats., unless the tax is timely paid. A claim under section 74.37 must be filed with the municipality by January 31 of the year the tax is payable.