

CITY OF MADISON, WISCONSIN

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**REPORT OF THE CITY ATTORNEY**

AUTHOR: Jaime L. Staffaroni

DATED: February 26, 2014

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TO THE MAYOR AND COMMON COUNCIL:

RE: UNLAWFUL TAXATION: Mary Ann Drescher for Attic Angel Prairie Point, Inc. – unlawful taxation - \$190,662.61


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 2013 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, which went into effect in 2010.

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). Under the old law, 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. 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 fourth lawsuit in the Dane County Circuit Court for the 2013 taxes as the Claimant has also brought an action for the 2011 and 2012 taxes consolidated under Case number 12CV1191.

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

This claim was filed on January 28, 2014, 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.

Respectfully submitted,

  
Jaime L. Staffaroni  
Assistant City Attorney