

CITY OF MADISON, WISCONSIN

REPORT OF THE CITY ATTORNEY

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TO THE MAYOR AND COMMON COUNCIL:

RE: UNLAWFUL TAXATION: Matthew Fleming, Murphy Desmond S.C., for St. Raphael's Congregation – unlawful taxation - \$24,361.38

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 \$24,361.38 for their 2016 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. The Claimant sued the City for the recovery of their 2014 and 2015 property taxes in the Dane County Circuit Court in case number 15CV1437, alleging that the property is exempt from taxation pursuant to Wis. Stat. § 70.11(4)(a) as a religious property. The circuit court ruled in favor of the City and denied the property tax exemption. St. Raphael's appealed to the Court of Appeals IV district and the matter is currently pending case number 2016 AP 2319.

The City Attorney and Assessor have consulted on this matter and have determined that the property does not satisfy the requirements for exemption for tax year 2016, pursuant to Wis. Stat. § 70.11(4)(a) as a religious property.

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

Note: This claim was received on January 24, 2017, 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