

CLAIM FOR EXCESSIVE ASSESSMENT

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Pursuant to Wis. Stat. § 74.37, Mirus Madison LLC (the “Claimant”), whose address is 7447 University Ave., Suite #210, Middleton, Wisconsin, hereby files a 2023 claim for excessive assessment regarding the property located in the City of Madison (“City”) at 501 Northport Drive, Parcel No. 0809-264-0090-6 (“Subject Property”).

1. For the year 2023, the City assessed the Subject Property at a total assessment of \$6,901,000. The 2023 assessment is the same as the 2022 assessment for the Subject Property.
2. The Claimant previously filed a lawsuit in Dane County Circuit Court challenging the City’s 2022 final assessed value of the Subject Property, Case No. 2023-CV-1127 (“the 2022 Litigation”).
3. The 2022 Litigation remains unresolved.
4. Since the 2022 Litigation remains unresolved and the amount of the assessment did not change in 2023, Claimant was not required to file a new objection at board of review to contest the 2023 assessment of the Subject Property as excessive. *See Walgreen Co. v. City of Oshkosh*, 2014 WI App 54, ¶ 17, 354 Wis. 2d 17, 848 N.W.2d 314 (“if the property’s valuation remains under objection as of the first meeting of the BOR in the following year, the BOR is on notice that the property owner continues to object to the assessment and the property owner need not file a new Wis. Stat. § 70.47(7) objection to proceed with a claim on the next year’s assessment.”).
5. The Subject Property is federally regulated housing pursuant to I.R.C. § 42 and subject to a Land Use Restriction Agreement which limits the amount of rents Claimant can charge its tenants.
6. The City’s assessment of the Subject Property was based on the income approach, which converts the future benefits likely to be derived from the property into an estimate of present value. Under the income approach, the property’s annual net operating income (income less expenses or NOI) is divided by a capitalization rate. The capitalization rate is an estimate of the rate of return an investor would expect in order to invest in the Subject Property. When assessing subsidized housing, assessors are required to consider the effects the property’s restrictions have on value. In addition, Wisconsin law requires the City to use the actual income and expense performance of the Subject Property when determining the assessed value of the property.
7. The City did not follow this required methodology when determining the assessed value of the Subject Property. For example, the City did not use the actual expenses of the Subject Property. In addition, the City derived the capitalization rate from financing appraisals completed during construction for other low-income housing tax credit properties in Madison.

Deriving a capitalization rate in this manner does not account for the restrictions placed on the properties during its compliance period, and therefore, the City's chosen capitalization rate fails to consider the effect the restrictions have on the value of the property to a potential buyer.

8. The 2023 assessment exceeds the fair market value of the Subject Property. Based on the actual income and expenses of the Subject Property, the actual assessed value does not exceed \$2,963,959.

9. The excessive 2023 assessment resulted in a 2023 net property tax amount of \$126,051.53.

10. Claimant has satisfied all conditions precedent to filing this claim including full payment of its property taxes.

11. Claimant hereby requests a refund of 2023 taxes in the minimum amount of at least \$71,874.91, plus statutory interest.

12. The undersigned is authorized to file this Claim on claimant's behalf based on authorization previously provided to the City.

Dated this 29th day of January 2024.

FOLEY & LARDNER LLP

By 
Eric J. Hatchell

Claimant's Authorized Agent