

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

Personal Substitute
 Pooled Corporate

with a copy to:

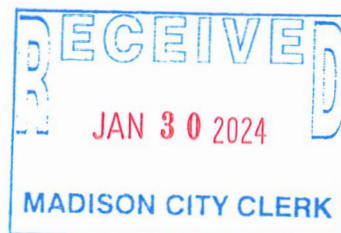
CITY OF MADISON ASSESSOR
210 Martin Luther King, Jr. Blvd.
Room 101
Madison, WI 53703

Process Server: *JA*
Date: 1-30-2024 Time: 2:30p
Address of Service: 215 Martin Luther King Jr Blvd
Rm 103 Madison, WI 53703
Person Served: Heather Harris

MADISON WHITNEY ZC ESSENTIAL DST and HY-VEE, INC., by their attorneys, Stroud, Willink & Howard, LLC, hereby submit the following claim for an excessive assessment to the City of Madison:

PARTIES INVOLVED

1. The City of Madison (hereinafter the "City") is a taxation district located in Dane County 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.



Hand delivered JHH+HH

5. Claimant MADISON WHITNEY ZC ESSENTIAL DST ("Whitney ZC") is a Delaware statutory trust with its principal office located at 2901 Butterfield Rd., Oak Brook, IL 60523.
6. Whitney ZC owns real estate identified as 675 S. Whitney Way, Madison, WI 53711, Parcel No. 251/0709-304-0403-6 (the "Property").
7. Whitney ZC leases the Property to Hy-Vee, pursuant to a lease agreement dated October 28, 2022 (the "Lease"), and Hy-Vee operates a grocery store in the Property. Whitney ZC and Hy-Vee shall be collectively referred to herein as the "Claimant."
8. Pursuant to the Lease, Hy-Vee pays all real estate taxes for the Property.
9. J.W. Chatham and Associates (the "Agent") is the authorized agent of Claimant pursuant to the Agent Authorization for Property Assessment Appeals attached hereto as **Exhibit A**.

CIRCUMSTANCES GIVING RISE TO THE CLAIM AND INJURY

10. Claimant hereby incorporates by reference Paragraphs 1-9 above.
11. Sometime in 2023, the City increased the real estate tax assessment of the Property to \$18,010,000.
12. Based on comparable market data, the fair market value of the Property as of January 1, 2023, was no higher than \$7,037,900.
13. On May 3, 2023, Claimant, by its Agent, filed an appeal of the assessment of the Property and submitted its Objection to Real Property Assessment for the Property (the "Objection"). A true and correct copy of the Objection is attached hereto as **Exhibit B**.
14. On August 9, 2023, the Assessor notified Claimant that the Board of Assessors reviewed but did not change the assessment for the Property.
15. On August 14, 2023, Claimant requested a Board of Review ("BOR") hearing on the assessment of the Property.
16. A BOR hearing was held on October 17, 2023.
17. On October 17, 2023, the BOR issued the Notice of Board of Review Determination for the Property. The BOR determined the 2023 Final Assessment for the Property was

\$18,010,000. Attached hereto as Exhibit C is a true and correct copy of the Determination for the Property.

18. The 2023 taxes for the Property are \$329,195.12, and the total taxes owed less credits are \$329,106.97.
19. On January 23, 2024, Claimant made the first of the four installment tax payments in the amount of \$82,276.69.
20. Pursuant to Wis. Stat. § 74.37(2), Claimant hereby files a written claim for an excessive assessment against the City.
21. 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.
22. 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.

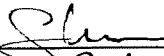
CLAIMS AND INJURY

23. Claimant hereby incorporates by reference Paragraphs 1-22 above.
24. The value of the Property as of January 1, 2023, was no higher than \$7,037,900.
25. The 2023 assessment of the Property exceeded the fair market value of the Property by \$10,972,100.
26. As a result, the 2023 real estate tax imposed on the Property in the amount of \$329,195.12 was excessive.
27. Claimant is entitled to a refund of the 2023 real estate tax on the Property in the estimated total amount of \$200,553.13, plus statutory interest.

Dated this 31st day of January, 2024.

Respectfully submitted,

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

By: 
Name: Gab 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

Madison Hy-Vee #2
Grocery Store

Agent Authorization for Property Assessment Appeals

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

Section 1: Property Owner and Property Information					
Company/property owner name MADISON WHITNEY ZC Hy-Vee as Aggrieved Taxpayer			Taxation district (check one): <input type="checkbox"/> Town <input type="checkbox"/> Village <input type="checkbox"/> City County Enter municipality: Madison City Wisconsin (Dane County)		
Mailing address 5820 Westown Parkway			Street address of property 675 S Whitney Way, Madison		
City West Des Moines	State IA	Zip 50266-	City Madison	State WI	Zip
Parcel number 251-0709-304-0403-6		Phone (515) 267-2800	Email		Fax () -

Section 2: Authorized Agent Information					
Name/Title Jerry Chatam, Gabe Noller, and/or Erik Preston			Company name J. W. Chatam and Associates		
Mailing address 14360 W 96th Terrace			Phone 913 239-0990 Fax () -		
City Lenexa	State KS	Zip 66215	Email jchatam@jwchatam.com		

Section 3: Agent Authorization	
Agent Authorized for (check all that apply): <input checked="" type="checkbox"/> Manufacturing property assessment appeals (MOA) <input checked="" type="checkbox"/> Access to manufacturing assessment system (MAS) <input checked="" type="checkbox"/> Wisconsin Department of Revenue 70.85 appeals <input checked="" type="checkbox"/> Municipal Board of Review <input type="checkbox"/> Other: _____	Enter Tax Years of Authorization: Full Authority for <u>2023</u> _____ _____
Authorization expires <u>1/1/2024</u> (unless rescinded in writing prior to expiration) (mm-dd-yyyy)	
Send notices and other written communications to (check one or both) <input checked="" type="checkbox"/> Authorized Agent <input type="checkbox"/> Property Owner	

Section 4: Agreement/Acceptance
I understand, agree and accept: 1. The assessor's office may divulge any information it may have on file concerning this property. 2. My agent has the authority and my permission to accept a subpoena concerning this property on my behalf. 3. I will provide all information I have that will assist in the discussion and resolution of any assessment appeal of this property. 4. Signing this document does not relieve me of personal responsibility for timely reporting changes to my property and paying taxes, or penalties for failure to do so, as provided under Wisconsin tax law. 5. A photocopy and/or faxed copy of this completed form has the same authority as a signed original. 6. If signed by a corporate officer, partner, or fiduciary on behalf of the owner, I certify that I have the power to execute this Agent Authorization form.

Section 5: Owner Grants Authorization	
Owner Sign Here	Owner name (please print) Andy Schroeder
	Owner signature
	Company title SVP, Accounting, Controller
Date (mm-dd-yyyy) 05-01-2023	

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 / Agent Information				* If agent, submit written authorization (Form PA-105) with this form			
Property owner name (on changed assessment notice) MADISON WHITNEY ZC ESSENTIAL DST C/O HY-VEE				Agent name (if applicable) J.W. Chatam & Associates, Inc.			
Owner mailing address 5820 WESTOWN PKWY				Agent mailing address 14360 W. 96th Terrace			
City WEST DES MOINES	State IA	Zip 50266	City Lenexa	State KS	Zip 66215		
Owner phone (515) 267-2800	Email jchatam@jwchatam.com		Owner phone (913) 239-0990	Email jchatam@jwchatam.com			
Section 2: Assessment Information and Opinion of Value							
Property address 675 S Whitney Way				Legal description or parcel no. (on changed assessment notice)			
City Madison	State WI	Zip 53711	070930404036				
Assessment shown on notice - Total 18,010,000				Your opinion of assessed value - Total 7,037,900			

If this property contains non-market value class acreage, provide your opinion of the taxable value breakdown:

Statutory Class	Acres	\$ Per Acre	Full Taxable Value
Residential total market value			
Commercial total market value			7,037,900
Agricultural classification: # of tillable acres		@ \$ acre use value	
# of pasture acres		@ \$ acre use value	
# of specialty acres		@ \$ acre use value	
Undeveloped classification # of acres		@ \$ acre @ 50% of market value	
Agricultural forest classification # of acres		@ \$ acre @ 50% of market value	
Forest classification # of acres		@ \$ acre @ market value	
Class 7 "Other" total market value		market value	
Managed forest land acres		@ \$ acre @ 50% of market value	
Managed forest land acres		@ \$ acre @ market value	

Section 3: Reason for Objection and Basis of Estimate

Reason(s) for your objection: (Attach additional sheets if needed) Current County value is over market. Evidence to be presented at hearing.	Basis for your opinion of assessed value: (Attach additional sheets if needed) Market Data
---	---

Section 4: Other Property Information

- A. Within the last 10 years, did you acquire the property? Yes No
 If Yes, provide acquisition price \$ _____ Date - - (mm-dd-yyyy) Purchase Trade Gift Inheritance
- B. Within the last 10 years, did you change this property (ex: remodel, addition)? Yes No
 If Yes, describe NEW FARM MANAGED STRIP
 Date of changes - - (mm-dd-yyyy) Cost of changes \$ _____ Does this cost include the value of all labor (including your own)? Yes No
- C. Within the last five years, was this property listed/offered for sale? Yes No
 If Yes, how long was the property listed (provide dates) - - (mm-dd-yyyy) to - - (mm-dd-yyyy)
 Asking price \$ _____ List all offers received _____
- D. Within the last five years, was this property appraised? Yes No
 If Yes, provide: Date - - (mm-dd-yyyy) Value _____ Purpose of appraisal _____
 If this property had more than one appraisal, provide the requested information for each appraisal. _____

Section 5: BOR Hearing Information

- A. If you are requesting that a BOR member(s) be removed from your hearing, provide the name(s): _____
 Note: This does not apply in first or second class cities.
- B. Provide a reasonable estimate of the amount of time you need at the hearing _____ minutes.

Property owner or Agent signature 	Date (mm-dd-yyyy) 05-03-2022
---------------------------------------	---------------------------------

122.W1-2
2023

Notice of Board of Review Determination

Under state law (sec. 70.47(12), Wis. Stats.), your property assessment for the current year 2023 as finalized by the Board of Review (BOR) is listed below.

Property Owner	General Information
MADISON WHITNEY ZC ESSENTIAL DST C/O HY-VEE 5820 WESTOWN PKWY WEST DES MOINES IA 50266	Date issued 10-17-2023 Parcel no. 0709-304-0403-6 Address 675 S WHITNEY WAY Legal description _____ <input type="checkbox"/> Town <input type="checkbox"/> Village <input checked="" type="checkbox"/> City Municipality <u>MADISON</u>

Assessment Information			
20 <u>23</u> Original Assessment		20 <u>23</u> Final Assessment <i>(determined by BOR)</i>	
Land	\$ 2,290,000	Land	\$ 2,290,000
Improvements	\$ 15,720,000	Improvements	\$ 15,720,000
Personal property	\$	Personal property	\$
Personal property	\$	Personal property	\$
Personal property	\$	Personal property	\$
Total personal property	\$ 0	Total personal property	\$ 0
Total all property	\$ 18,010,000	Total all property	\$ 18,010,000

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 [Guide for Property Owners](#).

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.