

CITY OF MADISON, WISCONSIN

REPORT OF THE CITY ATTORNEY

AUTHOR: Jaime L. Staffaroni

DATED: 2/27/2019

TO THE MAYOR AND COMMON COUNCIL:

RE: EXCESSIVE ASSESSMENT: E. Hatchell, Foley & Lardner LLP for Bird Dog Hospitality IV, LLC - \$8,166.80

Claimant Bird Dog Hospitality IV, LLC is claiming a refund for excessive real property tax pursuant to Wis. Stat. § 74.37 for their 2018 taxes for their property located at 4801 Annamark Drive. The claimant alleges that the assessed value is too high and that the City used the fair market value of \$8,856,700 to arrive at the 2018 assessed value of \$8,500,000. The Claimant does not provide an opinion of what the assessed value of the subject property should be but rather states that the taxes are excessive at least in the amount of \$8,166.60.

The Claimant did not challenge their assessment with the Board of Review as required by Wis. Stat. § 74.37(4)

(a) No claim or action for an excessive assessment may be brought under this section unless the procedures for objecting to assessments under s. 70.47, except under s. 70.47 (13), have been complied with. This paragraph does not apply if notice under s. 70.365 was not given.

The Claimant alleges that they never received an assessment notice for 2018. Wis. Stat. § 70.365 provides in relevant part:


The assessor shall attach to the assessment roll a statement that the notices required by this section have been mailed and failure to receive the notice shall not affect the validity of the changed assessment, the resulting changed tax, the procedures of the board of review or of the board of assessors or the enforcement of delinquent taxes by statutory means.

Additionally, Wis. Stat. § 74.37 (2) (b) requires that the claim state the alleged circumstances giving rise to the claim and state as accurately as possible the amount of the claim. The Claimant does not satisfy the statutory requirements because: (1) the notice was sent from the Assessor's office and (2) they do not allege an actual assessed value of the property, but rather just state that the real property taxes are excessive in the amount of at least \$8,166.60.

Wisconsin tax statutes and case law require strict compliance with procedural requirements prior to commencing claims therefore, I recommend denial of the subject claim.

Note: This claim was received on January 30, 2019, and pursuant to Wis. Stat. § 74.37(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