



Legislation Text

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Fiscal Note

This resolution authorizes the City, pursuant to the proposed settlement agreement, to make a payment of \$27,500 to Greentree Glen, LLC and Midwest Affordable Housing Corp. as a refund of tax overpayments originally made to all taxing jurisdictions for tax year 2008. The City's share of the tax overpayments, \$10,239, must be budgeted as an expenditure in 2010. The remaining \$17,261 will be recognized as a receivable from the other taxing jurisdictions and is expected to be repaid to the City in 2011 in accordance with Wisconsin Department of Revenue procedures governing such property tax adjustments.

Title

Approving settlement of tax refund litigation with Greentree Glen, LLC and Midwest Affordable Housing Corp. for 2008, authorizing a refund in the amount of \$27,500.00 (without interest) from \$71,922.54 paid in real property taxes for 2008, pursuant to *Greentree Glen, LLC and Midwest Affordable Housing Corp. v. City of Madison*, Case No. 09CV3791, and amending the 2010 Operating Budget to appropriate \$10,239 from Contingent Reserve, to recognize the City's share of settlement costs.

Body

BACKGROUND

The City of Madison was sued by Greentree Glen, LLC and Midwest Affordable Housing Corp. ("Greentree Glen") for unlawful tax, claiming the apartments they own located at 732 Struck Street in the City of Madison are exempt from taxation. This apartment complex primarily consists of elderly residents. The City Assessor's Office has denied the property tax exemption for this location since 2006. Two previous lawsuits with Greentree Glen Case Nos. 08CV2514 and 07CV2749 were dismissed by stipulation. Our position has been that Greentree Glen does not meet the requirement of "benevolence" under the law and does not use the leasehold income (rent) for maintenance of the leased property, or reduction of construction debt of the property, or both as required under the exemption statute.

THE PROPOSED SETTLEMENT

The City of Madison and Greentree Glen have tentatively reached an agreement that the City of Madison will refund the amount of \$27,500.00 (without interest) of 2008 property taxes from the \$71,922.54 paid. While we believe we could have prevailed in this lawsuit under the law for 2008, the law was changed for 2009 and aside from a few units the property will be tax exempt for 2009.

The City Attorney believes that litigating these issues for one year of property taxes will not be beneficial, and is not the best use of City resources. Due to the change in the law, any litigation under the law in 2008 will not establish precedent for 2009 and beyond. The cost of litigation may easily exceed the proposed refund amount and will require a substantial amount of City resources. Although the risk is not great in this instance, as with any litigation, there is the potential risk of loss of the entire amount. The proposed settlement, under these unique circumstances, is a reasonable compromise of a disputed claim.

RESOLUTION

WHEREAS, the City of Madison and Greentree Glen are involved in litigation over property tax exemption for apartments located at 732 Struck Street in the City of Madison for tax year 2008 as outlined above; and WHEREAS, the City Attorney, the City Assessor and the City Comptroller recommend the approval of this Resolution;

NOW, THEREFORE BE IT RESOLVED:

1. That the City of Madison approves the settlement as outlined above.
2. That the Common Council authorizes the refund of \$27,500.00 from \$71,922.54 paid in real property taxes for 2008, from City resources to Greentree Glen in full settlement of Case No. 09CV3791. The settlement does not include interest.

3. The City Attorney is authorized to execute any necessary documents to effectuate the settlement.
4. The Assessor and other City staff are authorized to file for reimbursement from other taxing jurisdictions pursuant to Wisconsin Department of Revenue procedures.
5. That the 2010 Operating budget be amended to appropriate \$10,239 from Contingent Reserve to recognize the City's share of settlement costs.