



## Legislation Text

File #: 22131, Version: 1

### Fiscal Note

Pursuant to this resolution the City will reduce budgeted property tax revenue (account # GN01-71111) by \$28,059 to reflect the reimbursement of previously collected taxes. This action reduces the available fund balance but has no impact on the City's eligibility under the State Expenditure Restraint Program.

### Title

Authorizing a refund in the amount of \$28,058.76 for real property taxes for 2009, pursuant to a settlement of Cardinal Court, LLC v. City of Madison, Case No. 10CV3245

### Body

The City of Madison was sued by Cardinal Court, LLC ("Cardinal Court") for excessive tax, claiming the big box retail store they own located at 2301 East Springs Drive in the City of Madison was assessed at greater than fair market value. The City of Madison and Cardinal Court have tentatively reached an agreement to settle the dispute, subject to approval of the Common Council. Under the settlement, the City of Madison will refund the amount of \$28,058.76 of 2009 property taxes from the \$95,417.42 paid. This refund is based on a reduction in assessment from \$4,395,000 to \$3,100,000.

The tenant located in this property filed for bankruptcy in March of 2009 (Circuit City) and the real estate market took a downward turn shortly after the assessment date of January 1, 2009. The property now has a new tenant and lease in place and the City and Cardinal Court are not in dispute over the 2010 assessed value.

While property is to be assessed based on its value as of January 1st each year, the ensuing fall in commercial real estate value provides an argument to the property owner that those values had already started to fall as of January 1, 2009. In addition, at the time of the original claim for a refund, the property owner had not provided the City with a complete appraisal of the property. That appraisal is required for court proceedings. Upon review of the appraisal, the Assessor's opinion was that there was a reasonable chance a court would reduce the City's assessment.

Finally, the City Attorney notes that this case is simply over the value of the real estate and litigating these issues for one year of property taxes will not establish a precedent for 2010 and beyond. The changed circumstances made litigation more risky than it appeared at the time the claim was initially presented.

Therefore, the City Attorney recommends approval of this settlement as a reasonable accommodation of the risks and costs of litigation.

WHEREAS, the City of Madison and Cardinal Court are involved in litigation over property excessive assessment for a big box retail store located at 2301 East Springs Drive in the City of Madison for tax year 2009 as outlined above; and

WHEREAS, the City Attorney, the City Assessor and the City Finance Director recommend the approval of this Resolution.

NOW, THEREFORE BE IT RESOLVED:

1. The Common Council authorizes the settlement in Cardinal Court for 2009 tax year as described in the resolution.
2. That the Common Council authorizes the refund of \$28,058.76 from \$95,417.42 paid in real property taxes for 2009, from City resources to Cardinal Court in full settlement of Case No. 10CV3245.
3. The City Attorney is authorized to enter into a settlement agreement on behalf of the City with Cardinal Court as described in the resolution.
4. The City Assessor and City Attorney are authorized to file for reimbursement from other taxing jurisdictions pursuant to the Wisconsin Department of Revenue.
5. The 2011 operating budget is amended to reflect reduced revenues of \$28,058.76 to reflect the settlement costs.

