

Hankel, Bjelajac & Kallenbach, LLC
Attorneys at Law

COPY

Robert E. Hankel, S.C.
Atty. John M. Bjelajac, LLC
Terrance L. Kallenbach, S.C.

601 Lake Avenue
Post Office Box 38
Racine, Wisconsin 53401-0038
Telephone: (262) 633-9800
FAX: (262) 633-1209

Judith M. Hartig-Osanka
(1938-2011)

January 24, 2014

RECEIVED

JAN 27 2014

CITY ATTORNEY

Ms. Janice Johnson-Martin
City Clerk
Racine City Hall
730 Washington Avenue
Racine, Wisconsin 53403

RE: Claim for Excessive Assessment Filed by Racine Joint Venture II, LLC, for 2013 Real Estate Taxes

Dear Ms. Johnson-Martin:

As the legal counsel for the City of Racine Board of Review, you have forwarded to our office for further processing the Claim for Excessive Assessment (the "Claim") that has been filed with the City of Racine (the "City") regarding the 2013 real estate tax assessments for two parcels of property owned by Racine Joint Venture II, LLC (the "Claimant") and which are located at 5502 and 5700 Durand Avenue, Racine, Wisconsin (collectively, the "Regency Mall"). A copy of the Claim is attached as Exhibit X.

The circumstances pertaining to this Claim, however, are somewhat unique:

1. The City and the Claimant are presently in litigation in Racine County Circuit Court on tax assessment issues for the same two properties for the tax years 2009-2011 (Case No. 2010-CV-1235) and 2012 (Case No. 2013-CV-1518).
2. The 2009-2011 tax year litigation is set for a court trial before Judge Ptacek on June 24-27, 2014, while the 2012 tax year case, which is also before Judge Ptacek, is being held in abeyance pending the outcome of the 2009-2011 case. Attorney Amy Seibel is representing the City in these two actions, and Attorney Alan Marcuvitz and Attorney Robert Gordon represent the Claimant.
3. On or about June 24, 2013, the Claimant filed two Notices of Objection and Objection with the Board of Review ("BOR") with respect to these two properties regarding the real estate tax assessments for the tax year 2013.

Ms. Janice Johnson-Martin
January 24, 2014
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4. The BOR stood ready to hold an evidentiary hearing with respect to the two Objections (see attached Exhibit Y), but legal counsel for the Claimant ultimately elected to cancel the said Objections (see Exhibit Z), and no hearing was accordingly ever heard by the BOR at its 2013 proceedings regarding the two properties.

5. It is this writer's understanding that legal counsel for the Claimant canceled the two Objections, in large part, because the City and the Claimant never agreed upon a written stipulation for the 2013 tax year (as had been done procedurally for the 2012 tax year), and legal counsel for the Claimant instead chose to rely upon his interpretation of the Wisconsin case law in this matter, as described in Exhibit Z. (The references in the Claim to such a stipulation and/or a hearing or determination by the BOR on the matter are mistaken.)

The 2013 BOR accordingly never considered the merits of, nor made any determination regarding, the real estate tax assessments for the two properties for the tax year 2013, for ultimately no Objections were made by the Claimant to the same before the 2013 BOR. For all of the foregoing reasons, the Claim of the Claimant should be denied.

Should any representative of the City have any questions regarding this request, please feel free to contact our office.

Thank you very much.

Very truly yours,

HANKEL, BJELAJAC & KALLENBACH



John M. Bjelajac

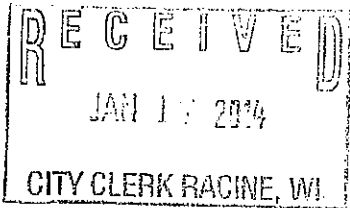
JMB/bj

cc: Atty. Robert K. Weber
City Assessor's Office



Michael Best & Friedrich LLP
Attorneys at Law
100 East Wisconsin Avenue
Suite 3300
Milwaukee, WI 53202-4108
Phone 414.271.6560
Fax 414 277.0656

Alan Marcovitz
Direct 414.225.4927
Email ahmarcovitz@michaelbest.com



CLAIM FOR EXCESSIVE ASSESSMENT

TO: Clerk, City of Racine
730 Washington Avenue
Racine, Wisconsin 53403

Now comes Claimant, Racine Joint Venture II LLC, owner of parcels 23876008 and 23876011 (the "Property") in Racine, Wisconsin, by Claimant's attorneys, MICHAEL BEST & FRIEDRICH LLP, and files this Claim For Excessive Assessment against the City of Racine ("the City"), pursuant to sec. WIS. STAT. §74.37.

1. Claimant is the owner of the Property, located at 5502 Durand Avenue and 5700 Durand Avenue, Racine, Wisconsin.
2. For 2011, property in the City was taxed at \$29.126361 per \$1,000 of assessed value.
3. The aggregate 2013 assessments of the Property were set by the Assessor at \$53,500,000. Timely objections were filed.
4. The parties entered into a Stipulation, a copy of which is attached hereto as Exhibit A.
5. Based on the 2013 assessments as sustained by the Board of Review, the City imposed an aggregate tax of \$1,558,132.84 on the Property.
6. The aggregate value of the Property for 2013 is no higher than \$34,000,000. This value is derived from appraisals of the Property.
7. The correct tax on the Property for 2013 should be no higher than \$990,296.27.
8. As a result of the excessive assessment of the Property for 2013, excess tax in at least the amount of \$567,836.57 was imposed on the Property.
9. The amount of this claim is \$567,836.57, plus interest thereon.

Dated at Milwaukee, Wisconsin this 15 day of January, 2014.

MICHAEL BEST & FRIEDRICH LLP

Alan Marcovitz

August 1, 2013

Atty. Alan Marcuvitz
Michael Best & Friedrich
100 East Wisconsin Avenue, Suite 3300
Milwaukee, Wisconsin 53202

RE: City of Racine Board of Review/Racine Joint Venture II, LLC

Dear Atty. Marcuvitz:

I am sending this letter to you in my capacity as the Chairman of the City of Racine Board of Review (the "Board").

The Board is in receipt of the e-mail, dated July 31, 2013, that was sent by you (through Ms. Jill L. Arps) to Attorneys Amy Seibel, Robert Weber, and John Bjelajac. A copy of your July 31 e-mail is enclosed for your convenient reference. Attorney John Bjelajac is the legal counsel for the Board.

On July 31, 2013, the Board met, as scheduled, on the objection that you filed with the Board regarding the 2013 tax assessment for your client, Racine Joint Venture II, LLC, regarding its real property located at 5700 Durand Avenue, Racine, Wisconsin. It was discussed at that time, and at earlier scheduled meeting dates of the Board, that a stipulation was being considered by your client and the City of Racine regarding the objection made with respect to the said 2013 assessment.

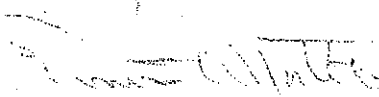
At that July 31 meeting, and at the request of the City of Racine, a Subpoena Duces Tecum was signed by me for the production of certain documents by your client, and a subpoena return date Board meeting was set for that purpose for 9:00 a.m. on August 13, 2013, at the City of Racine City Hall, Common Council Chambers, at 730 Washington Avenue, Racine, Wisconsin.

In light of your July 31, 2013 e-mail, however, and unless you indicate otherwise to the Board prior to or at its above-noted August 13 meeting, the Board will take steps to dismiss the objection filed by your client with respect to its tax assessment for the year 2013. If, on the other hand, you notify the Board at or before its August 13 meeting that you do wish to have an evidentiary hearing on the objection filed by your client, we will still gladly schedule the same.

Atty. Alan Marcuvitz
August 1, 2013
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Thank you very much.

Very truly yours,



Timothy C. Mattes
Chairman
City of Racine Board of Review

cc: Atty. Robert K. Weber
Atty. Amy Seibel
Atty. John M. Bjelajac
City Clerk Janice Johnson-Martin

Weber, Robert

From: Arps, Jill L (14945) [JLARPS@michaelbest.com]
Sent: Wednesday, July 31, 2013 12:28 PM
To: Amy Seibel (ars@amylawoffices.com); 'John Bjelajac (jmbjelajac@sbcglobal.net)'; Weber, Robert
Cc: Gordon, Robert L (14936); Boerke, Nicholas J (12767)
Subject: 2013 Regency Mall - on behalf of Alan Marcuvitz

Amy, John and Rob:

In light of the City's current position to not execute the proposed Stipulation for the Board, I want our position to be clearly expressed.

In reviewing this, I note the following facts:

1. We are litigating with the City, the challenged assessments for the 2 properties, for 2009-2011, in Case No. 10-CV-1235.
2. Not only were the assessments identified for 2009-2011, they have remained the same for both 2012 and 2013.
3. We are also litigating with the City, the challenged assessments for the 2 properties, for 2012, in Case No. 13-CV-1518, based on a 2012 decision by the Board to sustain the assessments, following a stipulation for exactly that action by the Board.
4. We are mystified by the City's refusal to simply follow the 2012 procedure with an identical 2013 procedure. We also believe this matter is governed by the decision in 232 Wis.2d 16, regardless of the reason for the City's position.
5. We filed the 2013 objections along with the proposed stipulation, fully expecting the City to be consistent with its prior actions. We did not have to file any objections nor do we wish to proceed to a time-consuming and unnecessary Board proceeding. The time of the Board and counsel, et al. is better applied elsewhere. We are not requesting any hearing by the Board.
6. We will be filing our claims for excessive assessments later this year and expect to commence action upon the anticipated denial.

Alan Marcuvitz

MICHAEL BEST <small>& FRIEDRICH LLP</small>	
Jill L. Arps Paralegal	Direct: (414) 225-4945 jlarps@michaelbest.com
100 East Wisconsin Avenue, Suite 3300 Milwaukee, WI 53202-4108 Phone: (414) 271-6560 Fax: (414) 277-0656	
michaelbest.com/jlarps	
michaelbest.com	

MICHAEL BEST

& FRIEDRICH LLP

Michael Best & Friedrich LLP
Attorneys at Law
100 East Wisconsin Avenue
Suite 3300
Milwaukee, WI 53202-4108
Phone 414.271.6560
Fax 414.277.0656

Alan Marcovitz
Direct 414.225.4927
Email ahmarcovitz@michaelbest.com

August 5, 2013

RECEIVED

AUG 7 2013

Hankel, Bielajac & Kattenbach, LLC

Chairman Timothy Mattes
City of Racine Board of Review
City Hall
730 Washington Avenue
Racine, Wisconsin 53403

Re: Racine Joint Venture -- 2013 assessment
5700 Durand Avenue -- Parcel 23876011

Dear Chairman:

We first want to express our sincere appreciation for the thoughtful and considerate letter you sent to us, dated August 1.

As you know, the owner and City have been litigating their dispute over the relevant tax assessments since 2009. Case No. 10-CV-1235 deals with those disputes for 2009-2011.

Last year, when the same assessments remained, we filed objections and then entered into a stipulation to have the Board sustain the objections, thus permitting the 2012 matters to proceed to a court proceeding. That has taken place, as contemplated, and Case No. 13-CV-1518 is now pending.

When we noted that the 2013 assessments were unchanged from 2012, we assumed that the approved methodology for 2012 would become the approved methodology for 2013. Thus, we prepared a package of objections and the same stipulation (adapted for 2013). We continue to be mystified as to why the City has changed its position.

In direct response to your question, we believe the 2013 dispute is governed by the Court of Appeals decision in *Dueterbeck v. Town of Koshkonong*, 2000 WI App.6, 232 Wis. 2d 16, 605 N.W.2d 904, which makes it unnecessary to file an objection and proceed before the

MICHAEL BEST

& FRIEDRICH LLP

Chairman Timothy Mattes
City of Racine Board of Review
August 5, 2013
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Board, when the assessments are unchanged. The 2013 objection forms, unnecessary under *Duesterbeck*, were prepared and presented solely to facilitate the stipulation in which we fully expected the City to join. Now that City has changed its position and declined to execute the stipulation, the 2013 objection forms, standing alone, are cancelled, as superfluous under *Duesterbeck*, and the Board may proceed as if no objections had been filed.

Thank you again for your consideration.

Very truly yours,

MICHAEL BEST & FRIEDRICH LLP


Alan Marcuvitz

AM:ly

cc: John Bjelajac, Esq.
Robert Weber, Esq.
Amy Seibel, Esq.
City Clerk, Janice M. Johnson-Martin

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