



CITY OF WAUWATOSA

7725 WEST NORTH AVENUE

WAUWATOSA, WI 53213

Telephone: (414) 479-8917

Fax: (414) 479-8989

<http://www.wauwatosa.net>

BOARD OF REVIEW

Wednesday, November 3, 2010 – 3:00 p.m.

PRESENT: Messrs. Benz, Duffey, Rice -3

ALSO

PRESENT: Mr. Miner, Assessor; Mr. Lenski, Deputy Assessor; Ms. Aldana, Asst. City Atty.;
Ms. Seibel, Counsel for the Assessor; Ms. Ledesma, Secretary to the Board

Mr. Benz in the Chair

Personal Property #162325

Don Millis, 22 E. Mifflin Street, Madison, attorney and authorized agent for Macy's Retail Holdings, Inc., was present.

Ms. Seibel referenced State Statute 70.35, stating that staff is asking the Board to order that appropriate witnesses from Macy's provide testimony under oath as to the value and items of substantial tenant improvements that Macy's put in and purchased at the store at Mayfair Mall.

The personal property assessment issue involves not only the 2010 assessment, but also 2008 and 2009. It is the city's position that certain tenant improvements ought to be considered personal (not real) property, and it is because of this position that the city issued dooimage assessments in May 2010 for 2010, 2009, and 2008.

The following exhibits were submitted:

- Exhibit 1 *Wisconsin State Statute* excerpt, 70.35
- Exhibit 2 Mayfair 71-260 – Summary of Book Costs by Year
- Exhibit 3 Statements of Personal Property, Years 2010, 2009, and 2008
- Exhibit 4 *Wisconsin State Statute* excerpt, 70.17
- Exhibit 5 Notices of Personal Property Assessment – Revised, Years 2010, 2009, and 2008
- Exhibit 6 Letter from Don Millis dated 11/1/10 to Steve Miner
- Exhibit 7 Letter from Don Millis 5/28/10 to Carla Ledesma
- Exhibit 8 City's response by Ms. Seibel, dated 11/2/10, to Mr. Millis' letter of 10/26/10
- Exhibit 9 2010 Notice of Assessment (revaluation increase)

Mr. Millis stated his client's position is that those improvements should be included in the real (not personal) property assessment. Much discussion occurred this summer in an effort to resolve this dispute. With a large company it can be difficult to find exact documents, or locate the exact person to support a figure. These kinds of companies spend large sums to improve their properties. Efforts have been made to identify people at Macy's to assist in this discussion. But in the meantime, the City opted to go in another direction. This is a good-faith dispute and Macy's has tried to cooperate by providing requested information.

Mr. Millis opined that the 70.17 reference (Exhibit 4) is inapplicable. Macy's does not lease land; it leases a building. Mr. Millis also questioned whether the Board has the authority to order a deposition. *Wisconsin State Statutes* 70.47 (8) discusses the Board's authority to issue subpoenas with reference to sub. (7)(c) or sub. (16)(c).

Mr. Millis stated he has not spoken to his client about producing witnesses for a deposition.

If the Board feels it can order a deposition, Mr. Millis stated he would likewise ask for a deposition of their appraiser and Mr. Miner because Macy's believes the leasehold improvements are part of the real property assessment. Mr. Millis urged that the parties continue to work this out. There is a lot of personal property to be considered. Let a hearing date be set, if necessary, but both sides should continue working on issues.

In response to a query about timing by Mr. Rice, Mr. Miner explained that tax bills will be issued whether this item has been resolved or not. It will not be settled before tax bills are sent out. The result will be that the initial assessment will be the basis for the taxes.

Ms. Seibel stated they will recommend a reduction from the original dooamage assessment.

Mr. Millis inquired whether reduced amounts could be reflected on the tax bills even though issues are still unresolved. The City knows it will have to make some refunds; it is preferable not to have to go through that exercise at all. Mr. Millis assured those present that if the proposed dooamage assessments are reduced to the amounts in the letter (11/2/10 letter from Ms. Seibel to Mr. Millis), they will not use this information in any litigation.

Following Board discussion, it was agreed that three options exist: The Board can do nothing, it can schedule a hearing, or it can order a deposition.

Mr. Duffey opined that a hearing is necessary. Mr. Rice concurred, and suggested that witnesses be requested to attend any valuation hearing that is scheduled.

It was moved by Mr. Rice, seconded by Mr. Duffey to require that Macy's produce witnesses at a valuation hearing to provide further evidence regarding the 2008, 2001, and 2010 personal property returns. Ayes 3

The hearing recessed at 4:45 p.m. to a date uncertain.

cal

Carla A. Ledesma,
Secretary to the Board