

**II**

R. O. No. \_\_\_\_\_ - 19 - 20. By CITY CLERK. September 3, 2019.

Submitting a Summons and Complaint in the matter of Wal-Mart Stores, Inc. v. City of Sheboygan.

*Finance  
Personnel*

\_\_\_\_\_  
CITY CLERK

FILED  
08-23-2019  
Sheboygan County  
Clerk of Circuit Court  
2019CV000444  
Honorable Rebecca L.  
Persick  
Branch 4

STATE OF WISCONSIN CIRCUIT COURT SHEBOYGAN COUNTY

WAL-MART STORES, INC.,  
702 SW 8<sup>th</sup> Street  
Bentonville, Arkansas 72716,

Plaintiff,

v.

CITY OF SHEBOYGAN,  
828 Center Avenue, Suite 100  
Sheboygan, Wisconsin 53081,

Defendant.

Case No.: 18-CV-  
Case Code: 30301  
(Money Judgment: Over \$10,000)

AUG 28 '19 AM 8:31

Process Server *Pat*  
Date 8/28/19 Time 8:25 am/pm  
 Personal  Substitute  
 Posted  Corporate

SUMMONS

THE STATE OF WISCONSIN

To each person named above as a defendant:

You are hereby notified that the plaintiff named above has filed a lawsuit or other legal action against you. The complaint, which is attached, states the nature and basis of the legal action.

Within twenty (20) days of receiving this summons, you must respond with a written answer, as that term is used in Chapter 802 of the Wisconsin Statutes, to the complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is 615 North 6<sup>th</sup> Street, Sheboygan, Wisconsin 53081, and to Gimbel, Reilly, Guerin & Brown LLP, plaintiff's attorney, whose address is 330 East Kilbourn Avenue, Suite 1170, Milwaukee, Wisconsin 53202. You may have an attorney help or represent you.

If you do not provide a proper answer within twenty (20) days, the court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated this 23<sup>rd</sup> day of August, 2018.

**GIMBEL, REILLY, GUERIN & BROWN LLP**

*By: Electronically signed by Christopher L. Strohbahn*

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**RUSSELL J. KARNES**

State Bar. No. 1054982

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**Attorneys for Plaintiff**

**POST OFFICE ADDRESS:**

**330 East Kilbourn Avenue, Suite 1170**

**Milwaukee, Wisconsin 53202**

**Telephone: 414-271-1440**

*civil/Walmart/Walmart-Sheboygan-City/p-2019/summons2019-08-20*

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COMPLAINT

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Plaintiff, Wal-Mart Stores, Inc. (Walmart), by its undersigned counsel, Gimbel, Reilly, Guerin & Brown LLP, for its complaint against defendant, City of Sheboygan (the City), alleges as follows:

**Nature of Action and Parties**

1. This action is brought under Wis. Stat. §74.37(3)(d), for a declaration by this court that the 2019 value with respect to the parcel of real property in the City known as parcel #59281479120 (the Property), is no more than \$6,250,000, and, if necessary, for a refund of the excessive real estate taxes due to be imposed on Walmart by the City for the Property in 2019, plus statutory interest.

2. Walmart is a foreign corporation duly licensed to conduct business in the State of Wisconsin. Walmart is located at 702 SW 8<sup>th</sup> Street, Bentonville, Arkansas 72716. Walmart is the tenant on the Property and is responsible for the payment of property taxes, as well as for the prosecution of property tax disputes involving the Property.

3. The City is a body politic, duly organized as a municipal corporation under Wisconsin law, with its principal office located at 828 Center Avenue, Suite 100, within the City.

4. The Property is located at 3711 South Taylor Drive, within the City.

#### **Background Facts**

5. The 2019 value of the Property was set by the City Assessor's office at \$13,265,000.

6. Walmart timely filed an objection to the 2019 assessment of the Property with the City's Board of Review (BOR) pursuant to Wis. Stat. §70.47. The Board granted a Waiver of Board of Review Hearing (Waiver) in accordance with the provisions of Wis. Stat. §70.37(3). Notice of that waiver was received on August 20, 2019. See attached Exhibit A.

7. Walmart timely brings this action and seeks review of the assessment as set forth below.

#### **First Claim for Relief - Excessive Tax Assessment**

8. The allegations of paragraphs 1-7 are incorporated as if fully re-alleged herein.

9. The value of the Property as of January 1, 2019 was no higher than \$6,250,000.

10. The 2019 assessment of the Property was excessive. As a result, the tax imposed on the Property for 2019 was excessive.

11. Walmart is entitled to a refund of 2019 taxes paid as may be determined to be due to Walmart, plus statutory interest.

#### **Second Claim for Relief - Non-Uniform Tax Assessment**

12. The allegations of paragraphs 1-11 are incorporated as if fully re-alleged herein.

13. The value of the Property as of January 1, 2019 was no higher than \$6,250,000.

14. Upon information and belief, the 2019 assessment was not uniform with the assessment of other properties in the City and State and therefore, violates the Uniformity Clause of the Wisconsin Constitution.

15. Walmart is entitled to a refund of 2019 taxes paid as may be determined to be due to Walmart, plus statutory interest.

#### **Third Claim for Relief - Declaratory Judgment**

16. The allegations of paragraphs 1-15 are incorporated as if fully re-alleged herein.

17. As alleged above, the City's BOR delegated its authority to determine the 2019 value of the Property to this Court for its determination.

18. An actual and justiciable controversy exists as to Walmart right to a reduction in the 2019 value of the Property as set forth in Wis. Stat. §70.47.

19. Walmart seeks a declaratory judgment construing Wis. Stat. §70.47 to mandate a reduction in the 2019 value of the Property from \$13,265,000 to \$6,250,000, in accordance with Wisconsin statutory and case law as well as generally accepted appraisal principles.

20. If the Court rules that a hearing is mandated, Walmart seeks an order scheduling an evidentiary hearing from which this Court may make an administrative determination of the value of the Property.

WHEREFORE, plaintiff Walmart seeks the following relief:

A. A determination that the value of the Property as of January 1, 2019 was no higher than \$6,250,000.

B. A determination that Walmart is entitled to a refund of all taxes paid on the portion of the tax assessment that was excessive.

C. An award of all litigation costs incurred by Walmart in this action, including the reasonable fees of its attorneys; and

D. Any such other and further relief as the Court deems appropriate and just.

Dated this 23<sup>rd</sup> day of August, 2019.

**GIMBEL, REILLY, GUERIN & BROWN LLP**

By: *Electronically signed by Christopher L. Strohbahn*

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**CHRISTOPHER L. STROHBEHN**

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**RUSSELL J. KARNES**

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**Attorneys for Plaintiff**

**POST OFFICE ADDRESS:**

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**Milwaukee, Wisconsin 53202**

**Telephone: 414-271-1440**

*tc/Walmart/Walmart-Shelton-City/p-2019/complaint2019-08-20*

### Request for Waiver of Board of Review (BOR) Hearing

Section 70.47 (5m), Wis. Stats., states: "The board may, at the request of the taxpayer or assessor, or at its own discretion, waive the hearing of an objection under sub. (3) or, in a 1<sup>st</sup> class city, under sub. (10) and allow the taxpayer to have the taxpayer's assessment reviewed under sub. (13). For purposes of this subsection, the board shall submit the notice of decision under sub. (12) using the amount of the taxpayer's assessment as the finalized amount. For purposes of this subsection, if the board waives the hearing, the waiver disallows the taxpayer's claim on excessive assessment under sec. 74.37(3) and notwithstanding the time period under sec. 74.37(3)(d), the taxpayer has 60 days from the notice of hearing waiver in which to commence an action under sec. 74.37(3)(d)."

**NOTE:** The legal requirements of the Notice of Intent to Appear must be satisfied and the Objection Form must be completed and submitted as required by law prior to the Request for Waiver of Board of Review Hearing being submitted.

**NOTE:** Request for Waiver must be presented prior to the commencement of the hearing.

Municipality <b>City of Sheboygan</b>		County <b>Sheboygan</b>	
Requestor's name <b>Wal-Mart Stores Inc</b>		Agent name if applicable <b>Christopher L. Strohhahn / Russell J. Karnes</b>	
Requestor's mailing address <b>P.O. Box 8050 Bentonville, AR 72712</b>		Agent's mailing address <b>Gimbel, Reilly, Guerin &amp; Brown, LLP 330 E Kilbourn Ave., Milwaukee, WI 53202</b>	
Requestor's telephone number <b>( 479 ) 204 - 3835</b>		Agent's telephone number <b>( 414 ) 271 - 1400</b>	
<input checked="" type="checkbox"/> Land Line <input type="checkbox"/> Cell Phone		<input checked="" type="checkbox"/> Land Line <input type="checkbox"/> Cell Phone	
Requestor's e-mail address <b>Brandon.Caplena@walmart.com</b>		Agent's e-mail address <b>cstrohhahn@grgblaw.com / rkarnes@grgblaw.com</b>	

Property address <b>3711 S. Taylor Dr., Sheboygan, WI 53081</b>	
Legal description or parcel number <b>59281-479120</b>	
Taxpayer's assessment as set forth by assessor. Value as determined due to waiver of BOR hearing <b>\$ 13,265,000</b>	
Property owner's opinion of value <b>\$ 6,250,000</b>	
Basis for request <b>To take matter directly to circuit court as cases regarding prior assessments are currently pending in circuit court</b>	
Date Notice of Intent to Appear at BOR was given <b>05 - 23 - 2019</b>	Date Objection Form was completed and submitted <b>05 - 23 - 2019</b>

All parties to the hearing understand that in granting of this waiver there can be no appeal to the Department of Revenue under sec. 70.85, Wis. Stats. An action under sec. 70.47(13), Wis. Stats., must be commenced within 90 days of the receipt of the notice of the waiving of the hearing. An action under sec. 74.37(3)(d), Wis. Stats., must be commenced with 60 days of the receipt of the notice of the waiving of the hearing.

*Christopher L. Strohhahn*  
Requestor's / Agent's Signature

\*If agent, attach signed Agent Authorization Form, PA-105

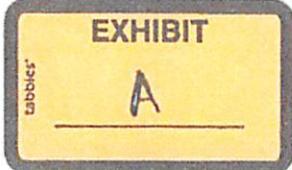
**Decision**  
 Approved       Denied

Reason \_\_\_\_\_

*[Signature]*  
Board of Review's Chairperson's Signature

**6/4/19**  
Date

Taxpayer advised      **6-6-19**  
Date



STATE OF WISCONSIN

CIRCUIT COURT

SHEBOYGAN

Wal-Mart Stores, Inc. vs. City of Sheboygan

**Electronic Filing  
Notice**

Case No. 2019CV000444

Class Code: Money Judgment

FILED  
08-23-2019  
Sheboygan County  
Clerk of Circuit Court  
2019CV000444  
Honorable Rebecca L.  
Persick  
Branch 4

CITY OF SHEBOYGAN  
828 CENTER AVENUE, SUITE 100  
SHEBOYGAN WI 53081

Case number 2019CV000444 was electronically filed with/converted by the Sheboygan County Circuit Court office. The electronic filing system is designed to allow for fast, reliable exchange of documents in court cases.

Parties who register as electronic parties can file, receive and view documents online through the court electronic filing website. A document filed electronically has the same legal effect as a document filed by traditional means. Electronic parties are responsible for serving non-electronic parties by traditional means.

You may also register as an electronic party by following the instructions found at <http://efiling.wicourts.gov/> and may withdraw as an electronic party at any time. There is a \$20.00 fee to register as an electronic party.

If you are not represented by an attorney and would like to register an electronic party, you will need to enter the following code on the eFiling website while opting in as an electronic party.

**Pro Se opt-in code: 54b574**

Unless you register as an electronic party, you will be served with traditional paper documents by other parties and by the court. You must file and serve traditional paper documents.

Registration is available to attorneys, self-represented individuals, and filing agents who are authorized under Wis. Stat. 799.06(2). A user must register as an individual, not as a law firm, agency, corporation, or other group. Non-attorney individuals representing the interests of a business, such as garnishees, must file by traditional means or through an attorney or filing agent. More information about who may participate in electronic filing is found on the court website.

If you have questions regarding this notice, please contact the Clerk of Circuit Court at 920-459-3068.

Sheboygan County Circuit Court  
Date: August 26, 2019