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Yankee Hill Housing Partners v. City of Milwaukee

Court of Appeals of Wisconsin - September 3, 2014 - Slip Copy - 2014 WL 4328201

Yankee Hill is a large residential apartment complex in Milwaukee that paid over \$196,000 in BID special assessments for tax years 2005 through 2011. The City of Milwaukee added BID special assessments to Yankee Hill's property tax bill during those years because the South Tower of the Yankee Hill complex lies within a business improvement district.

Yankee Hill eventually discovered that the BID special assessments it paid were contrary to WIS. STAT. § 66.1109(5)(a), which prohibits a municipality from imposing such assessments on real property used exclusively for residential purposes. Yankee Hill contacted various City authorities and requested a refund. The City refused, not because it believed that it was correct to impose the assessments, but because it believed that, pursuant to WIS. STAT. § 74.35(5)(a), any challenges to a special assessment must be brought by January 31 for the year in which the tax is payable and Yankee Hill's challenges were not timely made.

The Court of Appeals disagreed, concluding that neither § 893.80(1d) nor any statute of limitations barred Yankee Hill's claim.

Yankee Hill was not required to comply with the notice of claim statute, WIS. STAT. § 893.80(1d), because it gave the City actual notice of the claim and the City had not been prejudiced.