

**CITY OF WAUKESHA****Administration**

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Source: City Attorney, Assessor	Date: 8/21/2017
Common Council Item Number: 17-1280	Date: 9/5/2017
Submitted By: Brian Running, City Attorney	City Administrator Approval: Kevin Lahner, City Administrator Click here to enter text.
Finance Department Review: Rich Abbott, Finance Director Click here to enter text.	City Attorney's Office Review: Brian Running, City Attorney Click here to enter text.
Subject: Settlement of excessive-property-tax-assessment lawsuit by Menard, Inc.	

Details:

Menard's filed a lawsuit against the City alleging that our property-tax assessment for 2016 was too high, and demanding a refund of excess taxes already paid. Our liability insurance carrier covered the cost of outside counsel to defend the suit. Jack Bruce of Schober, Schober & Mitchell, who has represented the City in several other tax-assessment cases, was hired. The matter went to mediation before retired judge Jim Kieffer, and mediation was successful. The parties agreed that an assessment of \$14,000,000 is appropriate for 2016 and 2017. The City originally had assessed it at \$15,985,600, and the plaintiff had originally demanded \$8,000,000.

Options & Alternatives:

The only alternative is not to approve the settlement, which would result in the case going to trial, or possibly back to mediation again for another try at settlement.

Financial Remarks:

The settlement would result in a refund to Menard of \$41,120.78, of which the City is responsible for approximately \$21,202.00. The balance will be invoiced to the other taxing jurisdictions.

Staff Recommendation:

There's no reason to believe that another mediation would result in a different figure, because there are no changed facts. And, while we are confident in our position, we cannot be certain that a trial would achieve a better result for us. One of the big benefits of a settlement is to have certainty over the outcome of the suit. Mr. Bruce and the City Assessor are satisfied with the settlement assessment figure, so we recommend approval of the stipulation, authorization for the Mayor to execute it, and instructions to Mr. Bruce to follow through with the dismissal of the lawsuit.