

IN THE CIRCUIT COURT OF THE 22ND JUDICIAL CIRCUIT
McHENRY COUNTY, ILLINOIS

TAXPAYER, WOLF REALTY,
ET AL.,

Plaintiffs,

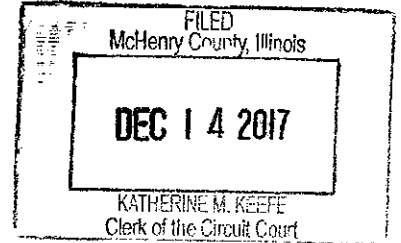
vs.

GLENDA MILLER, in her official capacity as
McHENRY COUNTY TREASURER and EX-
OFFICIO McHENRY COUNTY COLLECTOR,

Defendant.

No.: 15 TX 5

2014 TAX YEAR RATE
OBJECTION COMPLAINT



ORDER

This matter coming before the Court on trial on November 20, 2017, and evidence having been tendered, all parties being noticed and the Court being fully advised in the premises:

THE COURT FINDS:

1. This matter originally was presented to the Court on Tax Objectors' Motion for Summary Judgment, as to Intervenor Algonquin Township and the Algonquin Road District.
2. The Court was not comfortable with the numbers presented, denied Tax Objectors' Motion for Summary Judgment, and set the matter for trial on November 20, 2017.
3. At the evidentiary hearing on November 20, 2017 Mary Bowman and Robert Miller testified. Mary Bowman testified that she is a principal of Brown & Company, the entity which performs the annual comprehensive audit for Algonquin Township.
4. Mrs. Bowman testified that she has been performing the audits for Algonquin Township for the last 8-10 years, and that the Township as well as the Road District was included in the annual comprehensive audits.
5. Bowman testified as to the cash balance of each fund, the property taxes receivable and the general methods of the annual comprehensive audit;

6. Mrs. Bowman testified that the Township levied for eight funds; the Corporate Fund, also known as the Town Fund; the Public Assistance Fund; the I.M.R.F. Fund; the Road and Bridge Fund; the Liability Insurance Fund; the Social Security Fund; the Audit Fund, and the Building and Equipment Fund.

7. Plaintiff Tax Objectors have attacked every fund levied by Algonquin Township, on the basis of excess accumulation, with the exception of the Road and Bridge Fund, which falls under the Algonquin Road District levy.

8. Mrs. Bowman testified that, based upon the annual comprehensive audits, the Miller ratio for each fund, except the Road and Bridge Fund, was in excess of 2.0.

9. Specifically, Mrs. Bowman testified that the balance of the Corporate Fund (or Town Fund) was \$3,166,393, and the average, annual three year expenditures of that Fund was \$1,535,769, resulting in a Miller ratio of 2.06.

10. With respect to the Building and Equipment Fund, Mrs. Bowman testified that the balance of that Fund, as of the end of fiscal year prior to the 2014 levy, was \$2,653,027 with an annual, average three-year expenditure of \$1,196,039, Mrs. Bowman testified that the Miller ratio of the Building and Equipment Fund was 2.21.

11. With regard to the Public Assistance Fund, (or General Assistance Fund) Mrs. Bowman testified that it had a balance of \$488,548, with an average, annual three-year expenditure of \$142,879, resulting in a Miller ratio of 3.41.

12. Mrs. Bowman testified that the Social Security Fund had a balance of \$164,187, with an annual, three-year expenditure of \$58,022, resulting in a Miller ratio of 2.82.

13. Mrs. Bowman testified that the I.M.R.F. Fund had a balance of \$175,187, with a three-year average, annual cost of \$80,391, resulting in a Miller ratio of 2.17.

14. Mrs. Bowman testified that the balance of the Liability Insurance Fund was \$175,468, with an average annual expenditure over the last three years of \$50,824, resulting in a Miller ratio of 3.45.

15. As to the Audit Fund, Mrs. Bowman testified that the balance was \$74,271, and the three-year annual expenditures prior to the 2014 tax levy was \$3,083, resulting in a Miller ratio of 24.33.

16. All of the annual expenditures were calculated by using the numbers within the 2012, 2013, and 2014 annual comprehensive audits, or Tax Objectors' Exhibits A, B and C.

17. The Tax Objectors established that the Township had not passed a referendum to accumulate funds, nor did the Township budget for the accumulations under 605 ILCS 5/6-501(d) within their respective Budget and Appropriation ordinances. That provision allows for road districts to accumulate funds in a dedicated fund for a specific capital construction or maintenance project or a major equipment purchase without a referendum so long as the annual budget and appropriation ordinance for the Road District states the amount, purpose and duration of said funds, with a specific reference to each project. 605 ILCS 5/6-501(d) states:

(d) Any road district may accumulate moneys in a dedicated fund for a specific capital construction or maintenance project or a major equipment purchase without submitting a proposition to the electors of the district if the annual budget and appropriation ordinance for the road district states the amount, purpose, and duration of any accumulation of funds authorized under this Section, with specific reference to each project to be constructed or equipment to be purchased. Nothing in this subsection precludes a road district from accumulating moneys for non-specific purposes as provided in this Section.

Neither the Township, nor the Road District, presented any testimony that it had accumulated monies in accordance with 605 ILCS 5/6-501.

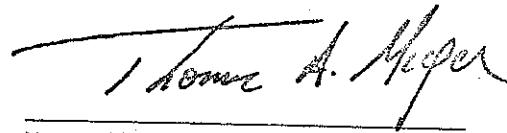
18. Tax Objectors submitted the annual budget and appropriation ordinances for both the Township and the Road District, (Tax Objectors' Exhibits D, E, F and G) and there was no reference at all to any project or equipment purchase for which the Township could accumulate funds under 655 ILCS

5/6-501(d). Additionally, Robert Miller's testimony reiterated that the Budget and Appropriation ordinances did not identify any project which necessitated the accumulation of public funds.

19. The Court finds that the Tax Objectors have established a prima facie case for excess accumulation, and that the claims against the Corporate Fund, the Public Assistance Fund, the Building and Equipment Fund, the I.M.R.F. Fund, the Audit Fund, the Liability Insurance Fund and the Social Security Fund are sustained.

IT IS THEREFORE ORDERED:

- A. That a rebate shall be issued by the County Collector from the Algonquin Township Corporate Fund levy to the Tax Objectors in the amount of \$60,955.27;
- B. That a rebate shall be issued by the County Collector from the Algonquin Township Public Assistance Fund levy to the Tax Objectors in the amount of \$9,390.40;
- C. That a rebate shall be issued by the County Collector from the 2014 Algonquin Road District I.M.R.F. Fund levy to the Tax Objectors in the amount of \$1,309.71;
- D. That a rebate shall be issued by the County Collector from the 2014 Algonquin Road District Equipment and Building Fund levy to the taxpayers in the amount of \$47,740.50;
- E. That a rebate shall be issued by the County Collector to the Tax Objectors for the 2014 Algonquin Road District Audit Fund levy in the amount of \$395.39;
- F. That a rebate shall be issued by the County Collector from the 2014 Algonquin Road District Liability Insurance Fund levy to the Tax Objectors in the amount of \$1,317.95;
- G. That a rebate shall be issued by the County Collector from the Social Security Fund levy in the amount of \$2,718.27 to the Tax Objectors;
- H. That the total amount to be rebated shall be paid to the Dwyer Law Office Trust Account for the purpose of rebating those entities found in Exhibit B of the complaint that paid taxes to Algonquin Township and the Algonquin Road District;
- I. Glenda Miller, in her capacity as McHenry County Treasurer and McHenry County Collector shall refund the Tax Objectors, through and payable to their counsel, Trust Account, The Dwyer Law Office, the sum of \$123,827.49, plus accrued statutory interest under 35 ILCS 200/23-10 as of September 5, 2015; and
- J. Algonquin Township shall pay Tax Objectors costs of \$1,172.08 pursuant to 735 ILCS 5/5-108.



Honorable Thomas A. Meyer
Associate Judge

Dated: December 14, 2017