



## **November Case Law Update November 30, 2022**

**A summary of court opinions decided during the month of November affecting planning in Wisconsin<sup>1</sup>**

### ***Wisconsin Supreme Court Opinions***

#### **Need to Pay Taxes Before Filing Claim or Recovery**

In [Saint John's Communities, Inc. v. City of Milwaukee](#), a unanimous Wisconsin Supreme Court upheld a Wisconsin Court of Appeals decision that Saint John's claim for recovery of unlawful taxes was procedurally deficient because Saint John's failed to first pay the challenged tax prior to filing the claim as required under Wis. Stat. § 74.35(2)(a). Saint John's owns an age-restricted continuing care retirement community that had been exempt from property taxes. Saint John's built a new 21-story residential tower on the site but ignored the City's request that it complete a property tax exemption application for the new facility indicating why it qualified for the exemption.

### ***Wisconsin Court of Appeals Opinions***

#### **Town's Denial of CAFO Expansion Upheld**

[Town of Ledgeview v. Livestock Facility Siting Review Board](#) involved the denial of a Livestock Facility Siting Permit by the Town of Ledgeview in Brown County. Ledgeview Farms applied to the Town for a permit to expand its livestock facilities under Wis. Stat. § 93.90 of the Livestock Facility Siting Law. The Town denied the permit based on the applicant's past violations of state and federal laws, the applicant's refusal to allow the Town to inspect the premises as part of the application process, and other reasons. Ledgeview Farms appealed the Town's denial to the Livestock Facility Siting Review Board. The Board found the Farms' claims valid in part and invalid in other parts but affirmed the Town's denial on the ground that the Town had authority to deny the application on credibility grounds as it related to the Farm's history of violations and refusing to provide the Town access to the farm.

Both the Town and the Farm petitioned for judicial review and the circuit court affirmed the Board's decision. The Farm then appealed the case to the Wisconsin Court of Appeals. The Court of Appeals also affirmed the Board's decision upholding the Town's denial of the permit. The Court of Appeals found that there was clear and convincing documentation in the record from which the Board could conclude that the application was not credible as to the Farm's commitments to comply with the State's runoff-management standards.

The case is recommended for publication in the official reports.

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<sup>1</sup> Previous updates are available at: <https://wisconsin.planning.org/policy-and-advocacy/case-law-updates/>

## ***U.S. Court of Appeals for the 7<sup>th</sup> Circuit Opinions***

[No planning-related cases to report.]