

FILED  
05-16-2024  
Clerk of Circuit Court  
Lincoln County  
2024CV000058

STATE OF WISCONSIN CIRCUIT COURT Lincoln County  
\_\_\_\_\_  
COUNTY  
BRANCH \_\_\_\_\_

Donald J. Dunphy

200 E. Riverside Ave, Merrill, WI 54452

Plaintiff

v.

Lincoln County

801 N. Sales St., Merrill, WI 54452

Defendant

Case No. \_\_\_\_\_

Certiorari Review:  
30955

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**SUMMONS**

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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 45 days after receiving this summons, you must respond with a written answer, as that term is used in Wis. Stat. Ch. 802, 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 1110 E. Main St., Merrill, WI 54452 and to Donald J. Dunphy plaintiff, whose address is 200 E. Riverside Ave., Merrill, WI 54452. You may have an attorney help or represent you.

If you do not provide a proper answer within 45 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 also may be enforced by garnishment or seizure of property.

Dated:

Donald J. Dunphy Plaintiff

Electronically signed by  
Donald J. Dunphy  
State Bar No.1017345  
200 E. Main St., Merrill, WI 54452  
715-921-0249  
dondunphy@hotmail.com

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200 E. Riverside Ave. Merrill WI 54452

Plaintiff

Case No. \_\_\_\_\_

v.

Action for Certiorari Review

Lincoln County

30955

801 N. Sales St. Merrill WI 54452

Defendant

**COMPLAINT**

Plaintiff, Donald J. Dunphy, alleges:

1. Plaintiff is a Lincoln County resident living at 200 E. Riverside Ave. Merrill, WI 54452
2. Defendant is a Municipal Corporation with an office at 801 N. Sales St. Merrill, WI 54452.
3. Defendant owns a nursing home, known as Pine Crest, located at 2100 E. 6<sup>th</sup> St., Merrill WI.
4. Defendant also owns a two-story brick office building, known as the Health and Human Services Building (H&HSB), located at 607 N. Sales St. Merrill WI.
5. That on February 19<sup>th</sup>, 2024, Defendant, by a resolution of its board of supervisors, authorized the sale of both Pine Crest and the H&HSB for 8.5 million dollars with a closing date of 06/30/2024
6. That, upon information and belief, this is the largest sale of county assets Defendant has

ever made.

7. That on 02/19/2024 the Defendant had in place a previously created resolution setting forth a detailed set of best practices to be followed for selling high value property.

8. That, upon information and belief, in approving the sale, Defendant failed to follow the best practices set forth in the resolution.

9. That the Lincoln County Code of Ordinances vests jurisdiction over Pine Crest and the H&HSB in the board's Forestry Committee.

10. That prior to approving the sale of these properties the Defendant never placed the proposed sale before the Forestry Committee for its consideration.

11. That, upon information and belief, the county's failure to follow its process for the sale of high value property, codified in the ordinance and resolution described above, resulted in Pine Crest and the H&HSB being sold for substantially less than they are worth.

12. That, upon information and belief, a substantial consideration in the County's decision to sell Pine Crest was the operating deficit experienced by the nursing home in the years prior to 2023.

13. That an increase to the Medicaid reimbursement rate paid to public nursing homes eliminated Pine Crest's operating expense deficits beginning in the first quarter of 2023.

14. That, upon information and belief, the county ignored the change in circumstances wrought by the increase in the Medicaid reimbursement rate because it was focused on selling Pine Crest to the exclusion of all other considerations.

15. That, upon information and belief, the process followed by the County in selling Pine Crest and the H&HSB was oppressive, unreasonable and represented its will rather than its judgment;

16. That, upon information and belief, by acting in an oppressive and unreasonable manner in making this sale the Defendant injured the financial interests and diminished the quality of life of Lincoln County residents

17. That Plaintiff asserts that a notice of claim under Sec. 893.80 is not required as Defendant had actual notice that it has failed to comply with its own sales protocol and was acting arbitrarily.

WEREFORE, plaintiff demands judgment against defendant as follows:

For an injunction forbidding Lincoln County and any of its officers from signing a deed transferring the subject properties to the buyer;

For an order requiring the defendant to return all earnest money to the buyer;

For an order declaring the Asset Purchase Agreement null and void; and

For such other and further relief as the court may deem appropriate.

Dated:

Donald J. Dunphy  
Plaintiff

Electronically signed by Donald J. Dunphy  
State bar No.1017345  
200 E. Riverside Ave.  
Merrill WI 54452  
715-921-0249  
dondunphy@hotmail.com