

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

MARK GREEN, individually and on behalf)
of all others similarly situated,)
)
Plaintiff,) **Case No.**
)
v.)
)
THE VILLAGE OF WINNETKA,)
)
Defendant.)

)

CLASS ACTION COMPLAINT

Plaintiff Mark Green (“Plaintiff”) brings this class action complaint against Defendant the Village of Winnetka (“Winnetka” or “the Village”) individually and on behalf of all others similarly situated, and complains and alleges upon personal knowledge as to himself and his own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by his attorneys.

I. NATURE OF THE ACTION

1. This action seeks to curb the improper use of Winnetka’s taxing authority. Winnetka chose in 2014 to fund its projected \$42 million, eight-mile long stormwater project through a “utility fee” that is in reality a disguised property tax. Such an action is improper. The construction of such capital improvements that are for the community as a whole must be funded via a property tax. Illinois has a constitutional and statutory regime that must be followed in order to raise property taxes. Winnetka circumvented this process by implementing a program that purports to charge its residents a user fee based upon the non-permeable area of their respective properties, rather than following the procedures necessary for a property tax increase.

2. Plaintiff brings this action to stop Winnetka from funding the stormwater project in this manner, and to recoup the amounts Winnetka has improperly collected from its residents under the guise of a stormwater fee.

II. JURISDICTION AND VENUE

3. This Court has personal jurisdiction over Winnetka under 735 ILCS 5/2-209 because Winnetka is subject to general personal jurisdiction in the State of Illinois, and because this action arises from Winnetka's transaction of business in Illinois and tortious acts that occurred in Illinois.

4. Venue is proper under 735 ILCS 5/2-101 because substantial part of the events and/or omissions giving rise to the claims occurred in this County.

5. Pursuant to General Order No. 1.2 of the Circuit Court of Cook County, this action is properly before the Chancery Division of the County Department because it is a Class Action.

III. PARTIES

Plaintiff Green

6. Plaintiff Mark Green is a natural person and a citizen of the State of Illinois. Plaintiff owns property in Winnetka located at 915 Pine Tree Lane. At all relevant times, Plaintiff has owned property deemed to contain 2.40 equivalent runoff units of impervious surface and has therefore been subject to Winnetka's Stormwater Utility Fee. Plaintiff has paid the fee under protest. To date, Plaintiff has paid over \$400 in Stormwater Utility Fees.

Defendant Winnetka

7. Winnetka is a municipal corporation organized under the laws of Illinois. Winnetka is located in Cook County, Illinois, and is a North Shore suburb of Chicago. Winnetka has an area of approximately 3.81 square miles. Winnetka's population was 12,370 as of 2012.

IV. FACTUAL BACKGROUND

Flooding in Winnetka

8. Originating as a small farming community, Winnetka has grown into one of Chicago's most desirable suburbs. With its close proximity to Lake Michigan, Winnetka's residents enjoy a variety of recreational and environmental benefits.

9. Winnetka's geographic location, however, has also created a significant challenge for the community, as the Village lies along the largest floodplain on Chicago's north shore.

10. To be sure, Winnetka boasts a network of drainage areas and pumping systems designed to ameliorate flooding in the community.

11. Nevertheless, in 2008, Winnetka experienced heavy rainfall that deposited more than eight inches of stormwater on the Village in less than 72 hours, leading to significant flooding throughout a portion of the community.

12. In the wake of the 2008 storm, the Winnetka village council ("the Council") engaged an engineering firm to identify improvements to the Village's existing stormwater system that could further reduce the risk of flooding.

13. Over the next three years, the Council sought improvements that could alleviate the effects of moderate storm events — *i.e.* those statistically expected to occur once every ten years.

14. But in July 2011, Winnetka experienced a massive storm that deposited six-and-a-half inches of rainfall in roughly *two and a half hours*. This deluge of water resulted in what is commonly referred to as a "100 year flood," meaning a flood event that has a one percent probability of occurring in any given year.

15. Prompted by the flooding in July 2011, the Council abandoned its initial plan to compensate for moderate storm events, and began focusing its efforts on designing a system sufficient to withstand the massive storms that give rise to 100 year floods.

The Winnetka Stormwater Tunnel

16. The Council’s efforts culminated in the Winnetka “Stormwater Management Plan,” an extensive (and expensive) capital improvement project designed to reduce structural flooding by 2017.

17. The centerpiece of this Plan calls for the construction of the “Willow Road Tunnel” — an 8-foot diameter, 7,900-foot-long storm sewer that will route stormwater from five separate drainage areas directly to Lake Michigan. Per the Council, the Willow Road Tunnel is expected to provide flood relief to a total of approximately 1,200 acres of land, or roughly half of the village.

18. Assuming that the Council can obtain the necessary permits to construct the Willow Road Tunnel, construction on the project is slated to begin in 2015, with an expected completion date of 2017.

19. The scope of the Willow Road Tunnel is rivaled only by its cost, which is currently projected at \$34.5 million. Aside from the Willow Road Tunnel, the Stormwater Management Plan also calls for an additional \$8 million to be spent on improvements to three areas of Winnetka’s existing stormwater infrastructure.

20. Notwithstanding this sizeable price tag, the Council also considered making improvements to an additional six drainage areas within the Village. But after contracting with an engineering firm, the Council ultimately decided that structural flooding in those six drainage areas was not significant enough to warrant any capital improvements.

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Financing the Stormwater Management Plan

21. As of May 2013, the Stormwater Management Plan was projected to cost the Village just shy of \$42 million in construction costs alone. Those costs are merely estimates, and thus it is highly likely that the final construction costs will exceed that \$42 million total.

| Project | Estimate of Project Cost |
|---|--------------------------|
| Winnetka Avenue Pump Station Improvements | \$ 1,188,562 |
| Spruce Street Outlet Area Improvements | |
| Lloyd Park Outlet | \$ 398,786 |
| Tower Road/Foxdale Area | \$ 1,162,853 |
| Northwest Winnetka Improvements | |
| Tower Road/Greenwood Area | \$ 3,581,924 |
| Forest Glen Extension | \$ 685,000 |
| Willow Road Tunnel | |
| North Willow, South Willow, & Provident | \$ 27,969,048 |
| Cherry Street Outlet Area | \$ 2,000,000 |
| Winnetka Underpass Area | \$ 4,400,000 |
| Area F (west of Hibbard Road)* | \$ 100,000 |
| | Total = \$ 41,486,173 |

* Cost estimate not yet finalized, but expected to be less than \$100,000

22. Although the Council allocated roughly \$8.2 million in reserve funds to cover a portion of those costs, it decided to finance the lion’s share — *e.g.* \$34.5 million — through the issuance of 30-year municipal bonds. With principal and interest, the cost of servicing this debt is conservatively estimated at \$61.3 million.

The Stormwater Utility Fee

23. Although Winnetka has “historically . . . funded stormwater maintenance and capital needs through property taxes,” the Council decided to service the debt issued to finance construction costs through the enactment of a “Stormwater Utility Fee.” *See* August 30, 2013 Stormwater Management Program Special Report, at 8, available at <http://winnetkastormwaterplan.com/> (last visited February 12, 2015.)

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24. To that end, the Village enacted Municipal Code Chapter 13.16, *et seq.*, to levy and assess the Stormwater Utility Fee.

25. The Stormwater Utility Fee is assessed on all property that contains “impervious surfaces.” Impervious surfaces are any areas that do not allow water to penetrate the ground, such as roofs, sidewalks and driveways. Thus, all Winnetka residents that own developed property are subject to the Stormwater Utility Fee.

26. To establish the Stormwater Utility Fee, the Council retained a consultant that first calculated the impervious area for each parcel in the Village, and then created a billing unit known as an “Equivalent Runoff Unit” (“ERU”) of 3,400 square feet of impervious area. The amount of impervious area for Winnetka’s ERU results from the average amount calculated for all Village parcels, rounded to the nearest tenth.

27. To ensure that the Village received sufficient funds to finance the \$61.5 million of principal and interest needed to satisfy its bond obligations, the Council’s consultant devised a financing strategy resulting in an annual Stormwater Utility Fee that will begin at \$262 per ERU, and climb to \$362 by 2018:

| Village Fiscal Year | 2014 | 2015 | 2016 | 2017 | 2018 |
|------------------------|-------|-------|-------|-------|-------|
| Stormwater Fee per ERU | \$262 | \$356 | \$358 | \$360 | \$362 |
| Number of ERUs | 6,638 | 6,639 | 6,639 | 6,639 | 6,639 |

28. Each property owner’s annual Stormwater Utility Fee is calculated by multiplying his or her total ERU by the Stormwater Utility Fee per ERU. A property owner with 2.4 ERUs, for instance, will pay \$854.40 in Stormwater Utility Fees in 2015. This amount is then broken into bi-monthly payments that are assessed on the property owner’s water and sewer bill. If a

property owner does not have an existing water and sewer account, the Village will create a new account for the sole purpose of assessing the Stormwater Utility Fee.

29. Although the Stormwater Utility Fee is charged individually to each property owner by physical address, the fees that are collected are not itemized individually by property address.

30. As explained above, the amount of the Stormwater Utility Fee is based on the amount needed to finance the construction costs of the Village's stormwater infrastructure. Given the \$61.5 million in principal and interest payments to be made over the next thirty years, Winnetka's Stormwater Utility Fee is one of the highest — if not the highest — in the nation. By contrast, the previous record holder appears to be Portland, Oregon, which clocked in at roughly \$260 per ERU. See http://articles.chicagotribune.com/2013-05-16/news/ct-met-winnetka-stormwater-20130516_1_stormwater-fee-winnetka-trustee-jack-buck (last visited February 12, 2015). Winnetka's 2015 Stormwater Utility Fee exceeds that amount by a margin of nearly \$100.

31. In the event a property owner does not pay his or her assessed Stormwater Utility Fee, all unpaid amounts shall constitute a lien against the property in favor of Winnetka.

Winnetka's Stormwater Utility Fee is a Poorly-Disguised Tax

32. The Stormwater Utility Fee has nothing to do with any services being rendered to property owners.

33. To the contrary, the fee is a thinly-veiled property tax, which the Village is assessing to finance construction of the Willow Road Tunnel and the improvements to the Village's existing stormwater infrastructure.

34. The Stormwater Utility Fee is being assessed primarily to cover the costs of constructing or improving Winnetka’s infrastructure. The fee is not defraying the costs of any regulatory activity by Winnetka, but rather is raising revenue to fund a public improvement for Winnetka.

35. The Council has made clear that the entire point of the Stormwater Utility Fee is to fund the cost of constructing the Willow Road Tunnel and the other improvements to the Village’s stormwater infrastructure: “The total cost of the capital improvements planned by the Village of the next five years is over \$41 million . . . A stormwater utility . . . is a feasible and equitable means of *funding the planned stormwater capital improvements.*”¹ Furthermore, the Council’s five-year cost estimates reveal that roughly 95% of the revenues received from the fee will be allocated to infrastructure costs, rather than operations and maintenance costs.

36. Although the Stormwater Utility Fee is being assessed on all developed property owners, some property owners will not benefit from the infrastructure improvements. Six drainage areas in Winnetka will receive no improvements to their stormwater infrastructure. Nevertheless, property owners in those drainage areas must pay to fund construction projects that will provide them with zero direct benefits.

37. The revenue derived from the Stormwater Utility Fee is not tied to the actual use of the system, but rather it is being used to construct the stormwater system. The fee is not associated with how much stormwater is being discharged into the system by Winnetka property owners, and Winnetka makes no attempt to measure discharge by individual property owners. Thus, the revenues derived from the fee exceed the cost of actually using the stormwater system.

¹ Village of Winnetka Stormwater Master Plan at 60, available at <http://winnetkastormwaterplan.com/wp-content/uploads/2014/07/Winnetka-Stomwater-Master-Plan-2014.pdf> (last visited February 12, 2015) (emphasis added).

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38. The Stormwater Utility fee is only assessed to those who own properties with impervious surfaces, *i.e.*, developed properties. But undeveloped properties may also create runoff that will eventually flow into the stormwater infrastructure. There is no mechanism to prevent owners of undeveloped properties from using the stormwater infrastructure, despite that they pay nothing for this service.

39. Winnetka itself is also using the stormwater infrastructure, via the Village’s public roadways and sidewalks, which are clearly “impervious surfaces” that will discharge water into the stormwater infrastructure. Pursuant to its Village Code (WINNETKA, IL. VILLAGE CODE § 13.16.130), Winnetka pays nothing for this use of the service. Accordingly, the stormwater infrastructure is used by the Village as a whole, rather than the property owners who actually pay for the service.

40. Moreover, if the Stormwater Utility Fee were truly a “user fee,” then property owners would only need to pay the fee after using the service. The Stormwater Utility Fee, by contrast, is assessed in identical amounts every other month, regardless of whether it even rains during that time. It makes no difference whether Winnetka receives 10 inches of rain each day or suffers through a year-long drought — the fee remains the same.

41. No matter what name the Council uses, the fee at issue is simply a tax designed to subsidize the Willow Road Tunnel and other infrastructure improvements, as opposed to a fee (such as for garbage) that is paid for only by those who use the service, in direct, measurable proportion to their use of the service.

42. Accordingly, Plaintiff and the Class are entitled to a declaratory judgment decreeing that the Stormwater Utility Fee is an unconstitutional and invalid tax, and an injunction requiring the Village to, among other things: (a) cease collecting any Stormwater

Utility Fees from Plaintiff and the Class; (b) provide a refund to Plaintiff and the Class for all Stormwater Utility Fees collected to date; and (c) collect all future amounts required to fund the Stormwater Management Plan through the levy of taxes.

VI. CLASS ACTION ALLEGATIONS

43. Plaintiff brings this action on behalf of himself and all other similarly situated individuals and seeks certification of the following class:

All Winnetka residents that own properties and have been assessed the Stormwater Utility Fee.

Excluded from the Class are the Village of Winnetka and its subsidiaries and affiliates; all persons who make a timely election to be excluded from the Class; governmental entities; and the judge to whom this case is assigned and any immediate family members thereof.

44. Certification of Plaintiff's claims for class-wide treatment is appropriate because Plaintiff can prove the elements of his claims on a class-wide basis using the same evidence as would be used to prove those elements in individual actions alleging the same claims.

45. **Numerosity – 735 ILCS 5/2-801(1).** The members of the Class are so numerous that individual joinder of all Class members is impracticable. Thousands of Winnetka residents have been charged Stormwater Utility Fees and have been damaged by Winnetka's conduct. The precise number of Class members and their addresses is presently unknown to Plaintiff, but may be ascertained from Defendant's books and records. Class members may be notified of the pendency of this action by recognized, Court-approved notice dissemination methods, which may include U.S. mail, electronic mail, Internet postings, and/or published notice.

46. **Commonality and Predominance – 735 ILCS 5/2-801(2).** This action involves common questions of law and fact, which predominate over any questions affecting individual members of the Class, including, without limitation:

- a. Whether the Stormwater Utility Fee is a tax; and
- b. Whether Plaintiff and the Class are entitled to equitable relief, including, but not limited to, declaratory and injunctive relief.

47. **Adequacy of Representation – 735 ILCS 5/2-801(3).** Plaintiff is an adequate representative of the Class because his interests do not conflict with the interests of the members of the Class he seeks to represent; he has retained counsel competent and experienced in complex commercial and class action litigation; and Plaintiff intends to prosecute this action vigorously. The interests of the Class will be fairly and adequately protected by Plaintiff and his counsel.

48. **Superiority – 735 ILCS 5/2-801(4).** A class action is superior to any other available means for the fair and efficient adjudication of this controversy, and no unusual difficulties are likely to be encountered in the management of this class action. The damages or other financial detriment suffered by Plaintiff and members of the Class are relatively small compared to the burden and expense that would be required to individually litigate their claims against Winnetka, so it would be impracticable for members of the Class to individually seek redress for Winnetka's wrongful conduct. Even if members of the Class could afford individual litigation, the court system could not. Individualized litigation creates a potential for inconsistent or contradictory judgments, and increases the delay and expense to all parties and the court system. By contrast, the class action device presents far fewer management difficulties, and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court.

VII. CLAIMS ALLEGED

**COUNT I
Declaratory Judgment**

49. Plaintiff re-alleges and incorporates by reference the allegations contained in paragraphs 1–48 above as if fully set forth herein.

50. The Stormwater Utility Fee is being assessed to cover the costs of constructing or improving Winnetka’s infrastructure. The fee is raising revenue to fund a public improvement.

51. Although the Stormwater Utility Fee is being assessed on all developed property owners, some property owners will not benefit from the improvements to the stormwater infrastructure.

52. The revenue derived from the Stormwater Utility Fee is not tied to the actual use of the system. The fee is not associated with how much stormwater is being discharged into the system by Winnetka property owners. Winnetka makes no attempt to measure discharge by individual property owners.

53. The Stormwater Utility Fee is not assessed to undeveloped property owners, even though those properties may create runoff that will flow into the stormwater infrastructure.

54. The Stormwater Utility Fee is in reality a disguised property tax designed to subsidize the Willow Road Tunnel and other infrastructure improvements.

55. Thus, an actual controversy exists between the parties hereto, making this cause of action proper for disposition pursuant to Section 2-701 of the Code of Civil Procedure.

56. Plaintiff and the Class have no adequate remedy at law with respect to the matters set forth in this Count.

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WHEREFORE, Plaintiff Green requests that this Court enter a declaratory judgment in his favor and against Defendant Village of Winnetka, declaring, adjudicating, and decreeing as follows:

- (a) The Stormwater Utility Fee is invalid, was invalid from its inception, and is unenforceable against Plaintiff and the Class;
- (b) Plaintiff and the Class are entitled to a full refund of all monies paid for the Stormwater Utility Fee;
- (c) Plaintiff is awarded his costs of suit incurred herein; and
- (d) Plaintiff is granted such other relief as the Court deems just and equitable.

COUNT II

Violation of the Illinois Constitution (Article IX, Section 4, Uniformity of Taxation Clause)

57. Plaintiff re-alleges and incorporates by reference the allegations contained in paragraphs 1–48 above as if fully set forth herein.

58. The Illinois Constitution mandates that “taxes upon real property should be levied uniformly by *valuation* ascertained as the General Assembly shall provide by law.” IL CONST Art. 9, § 4(a) (emphasis added).

59. Because the Stormwater Utility Fee is a disguised property tax, the method in which it is levied runs afoul of Article IX, Section 4(a) of the Illinois Constitution.

60. The Stormwater Utility Fee is not levied (uniformly or otherwise) based upon property valuation. To the contrary, the Stormwater Utility Fee is levied based upon the impervious area of a given property.

61. For instance, while an extensive parking lot may have far more impervious surface than a high-rise apartment complex, there can be no serious debate that the latter has a higher property value than the former. Nonetheless, the owner of the parking lot is subject to a higher Stormwater Utility Fee than the owner of the high-rise apartment complex.

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62. In addition, the Village levied the Stormwater Utility Fee on properties that are *not even subject to taxation* — such as churches, schools, and other tax-exempt properties.

63. The Village deliberately levied the Stormwater Utility Fee based upon the impervious area of a given property, rather than its valuation.

64. The Village’s willful violation of the Illinois Constitution has irreparably harmed Plaintiff and the Class by depriving them of the benefits of a lawfully levied property tax, including, but not limited to, appropriate income tax deductions.

65. Plaintiff and the Class are without an adequate remedy at law and will continue to suffer irreparable harm unless the Village is preliminarily and permanently enjoined from continuing its ongoing violation of the Illinois Constitution.

WHEREFORE, Plaintiff Green requests that this Court enter an Order in his favor and against Defendant Village of Winnetka, declaring, adjudicating, and decreeing as follows:

- (a) The Stormwater Utility Fee is unconstitutional, was unconstitutional from its inception, and is unenforceable against Plaintiff and the Class;
- (b) The Village of Winnetka is preliminarily and permanently enjoined from levying and collecting Stormwater Utility Fees until such time as the Village of Winnetka implements it as a property tax that complies with the requirements of Article IX, Section 4(a) of the Illinois Constitution;
- (c) Plaintiff and the Class are entitled to a full refund of all monies paid for the Stormwater Utility Fee.
- (d) Plaintiff is awarded his costs of suits incurred herein; and
- (e) Plaintiff is granted such other relief as the Court deems just and equitable.

COUNT III
Violation of Section 5/8-3-1 of the Illinois Municipal Code

66. Plaintiff re-alleges and incorporates by reference the allegations contained in paragraphs 1–48 above as if fully set forth herein.

67. Section 5/8-3-1 of the Illinois Municipal Code provides:

On or before the last Tuesday in December in each year, the corporate authorities shall ascertain the total amount of appropriations legally made or budgeted for and any amount deemed necessary to defray additional expenses and liabilities for all corporate purposes to be provided for by the tax levy of that year. Then, by an ordinance specifying in detail in the manner authorized for the annual appropriation ordinance or budget of the municipality, the purposes for which the appropriations, budgeting or such additional amounts deemed necessary have been made and the amount assignable for each purpose respectively, the corporate authorities shall levy upon all property subject to taxation within the municipality as that property is assessed and equalized for state and county purposes for the current year.

68. Because the Stormwater Utility Fee is a disguised property tax, the method in which it was enacted and levied directly violates the Illinois Municipal Code.

69. The Village enacted this disguised property tax without including it in an appropriate tax ordinance that complies with Section 5/8-3-1 of the Illinois Municipal Code.

70. Furthermore, the Village levied the Stormwater Utility Fee based upon a property's impervious area, rather than how that property is assessed and equalized for state and county purposes for the current year.

71. The Village deliberately enacted and levied the Stormwater Utility Fee in a manner that violates Section 5/8-3-1 of the Illinois Municipal Code.

72. The Village's willful violation of Section 5/8-3-1 has irreparably harmed Plaintiff and the Class by depriving them of the benefits of a lawfully enacted and levied property tax, including, but not limited to, appropriate income tax deductions.

73. Plaintiff and the Class are without an adequate remedy at law and will continue to suffer irreparable harm unless the Village is preliminarily and permanently enjoined from continuing its ongoing violation of Section 5/8-3-1 of the Illinois Municipal Code.

WHEREFORE, Plaintiff Green requests that this Court enter an Order in his favor and against Defendant Village of Winnetka, declaring, adjudicating, and decreeing as follows:

- (a) The Stormwater Utility Fee is invalid, was invalid from its inception, and is unenforceable against Plaintiff and the Class;
- (b) The Village of Winnetka is preliminarily and permanently enjoined from levying and collecting Stormwater Utility Fees until such time as the Village of Winnetka implements it as a property tax that complies with Section 5/8-3-1 of the Illinois Municipal Code;
- (c) Plaintiff and the Class are entitled to a full refund of all monies paid for the Stormwater Utility Fee.
- (d) Plaintiff is awarded his costs of suits incurred herein; and
- (e) Plaintiff is granted such other relief as the Court deems just and equitable.

COUNT IV
Unjust Enrichment

74. Plaintiff re-alleges and incorporates by reference the allegations contained in paragraphs 1–48 above as if fully set forth herein.

75. By assessing and collecting an invalid and unconstitutional property tax disguised as a Stormwater Utility Fee, the Village received a benefit from Plaintiff and the Class to which it was not entitled.

76. The Village knowingly appreciated and accepted this benefit, which resulted and continues to result in an inequity to Plaintiff and the Class.

77. The Village’s retention of such benefit violates the fundamental principles of just, equity, and good conscience.

78. As a result of the Village’s unjust enrichment, Plaintiff and the Class sustained damages in amount to be determined at trial. Plaintiff seeks full disgorgement and restitution of the Village’s enrichment, benefits, and ill-gotten gains acquired as a result of the unlawful and/or wrongful conduct alleged herein.

79. Plaintiff and the Class are without an adequate remedy at law and will continue to suffer irreparable harm unless the Village is preliminarily and permanently enjoined from continuing its ongoing violation of Section 5/8-3-1 of the Illinois Municipal Code.

WHEREFORE, Plaintiff Green requests that this Court enter an Order in his favor and against Defendant Village of Winnetka as follows:

- (a) Plaintiff and the Class are awarded restitution and disgorgement of any unjust enrichment received by the Village;
- (b) Plaintiff is awarded his costs of suits incurred herein; and
- (c) Plaintiff is granted such other relief as the Court deems just and equitable.

VIII. JURY DEMAND

Plaintiff demands a trial by jury of all claims in this Complaint so triable.

IX. REQUEST FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of the Class, requests judgment as follows:

- A. Certification of the proposed Class;
- B. Designation of Plaintiff as representative of the proposed Class and designation of Plaintiff's counsel as Class counsel;
- C. A declaration that the Winnetka Stormwater Utility Fee is a disguised tax and should be subject to the same restrictions and limitations as other taxes;
- D. An injunction requiring Winnetka to refund all Stormwater Utility Fees paid by the Class, and further prohibiting Winnetka from further assessing such charges under the guise of a utility fee; and
- E. An award to the Plaintiff and Class for such other and further relief as the Court deems just and proper.

Dated: February 12, 2015

Respectfully submitted,

By: /s/ Todd L. McLawhorn
One of the Attorneys for Plaintiff
And the Proposed Putative Class

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SUMMONS

ALIAS - SUMMONS

(2/18/11) CCG N001

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

MARK GREEN

(Name all parties)

v.

VILLAGE OF WINNETKA

No. 2015-CH-02430

Defendant Address:

VILLAGE OF WINNETKA
510 GREEN BAY ROAD
WINNETKA, IL 60093

Summons

To each Defendant:

SUMMONS

ALIAS - SUMMONS

YOU ARE SUMMONED and required to file an answer to the complaint in this case, a copy of which is hereto attached, or otherwise file your appearance, and pay the required fee, in the Office of the Clerk of this Court at the following location:

Richard J. Daley Center, 50 W. Washington, Room 802, Chicago, Illinois 60602

District 2 - Skokie
5600 Old Orchard Rd.
Skokie, IL 60077

District 3 - Rolling Meadows
2121 Euclid
Rolling Meadows, IL 60008

District 4 - Maywood
1500 Maybrook Ave.
Maywood, IL 60153

District 5 - Bridgeview
10220 S. 76th Ave.
Bridgeview, IL 60455

District 6 - Markham
16501 S. Kedzie Pkwy.
Markham, IL 60426

Child Support
28 North Clark St., Room 200
Chicago, Illinois 60602

You must file within 30 days after service of this Summons, not counting the day of service.

IF YOU FAIL TO DO SO, A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE RELIEF REQUESTED IN THE COMPLAINT.

To the officer:

This Summons must be returned by the officer or other person to whom it was given for service, with endorsement of service and fees, if any, immediately after service. If service cannot be made, this Summons shall be returned so endorsed. This Summons may not be served later than 30 days after its date.

Atty. No.: 48038
Name: GREGG MICHAEL BARBAKOFF
Atty. for: MARK GREEN
Address: 17 N. STATE STREET SUITE 1600
City/State/Zip: CHICAGO, IL 60602
Telephone: (312) 236-0000

WITNESS, Friday, 13 February, 2015

/s/ DOROTHY BROWN
Clerk of Court



Date of service: _____

(To be inserted by officer on copy left with defendant or other person)

Service by Facsimile Transmission will be accepted at: _____
(Area Code) (Facsimile Telephone Number)