

# Wisconsin Institute for Law and Liberty: Wisconsin Supreme Court agrees to hear challenge to Eau Claire TIF District

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Case raises constitutional issues about the appropriateness of giving tax money directly to developers

October 3, 2017 - Milwaukee, WI - The Wisconsin Supreme Court on Monday agreed to review *Voters With Facts v. City of Eau Claire*, a case filed by the Wisconsin Institute for Law & Liberty in March, 2015. The lawsuit seeks to invalidate the City's actions in creating and amending two tax incremental financing ("TIF") districts to fund certain aspects of the Confluence Project and, in particular, to pay fees and expenses to the real estate developers involved in the construction of a student residence hall/mixed use facility. The suit alleges that the TIF districts are illegal for the following reasons:

- The properties within the TIF districts do not meet the legal definition of "blight"
- Development within the TIF districts would occur even without TIF money
- The city council and the joint review board (a board made up of representatives of the different authorities that can tax property within the district) lacked a factual basis for their conclusions
- The TIF districts lack a valid public purpose
- The TIF districts violate the Uniformity Clause of the Wisconsin Constitution
- TIF funds are unlawfully being used to reimburse the developer for demolishing historic buildings

The suit was initially dismissed by the Eau Claire County Circuit Court, which concluded that the plaintiffs - all taxpayers who have been negatively be affected by the creation of the TIF districts - lacked standing to challenge the districts. The Court of Appeals upheld that ruling, except that it concluded the plaintiffs could proceed with a more limited challenge.

"We're glad the Wisconsin Supreme Court has agreed to hear our case," said Rick Esenberg, President and General Counsel of WILL. "The court of appeals' opinion created confusion as to who has legal standing to challenge an unlawful TIF district and ruled on our constitutional claims without fully considering our arguments. It essentially held that tax dollars can be given away to private developers without meaningful review of whether the statutory prerequisites for doing so have been met."

More information about the case can be found [here](#). Oral argument will likely be held sometime in the first half of 2018 and a decision can be expected by July.

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