

STATE OF WISCONSIN CIRCUIT COURT BROWN COUNTY  
BRANCH 4

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BROWN COUNTY  
TAXPAYERS ASSOCIATION  
and FRANK BENNETT,

Plaintiffs,

v.

Case No. 18-CV-0013

BROWN COUNTY and  
RICHARD CHANDLER,

Defendants.

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**ANSWER AND AFFIRMATIVE DEFENSES  
OF DEFENDANT RICHARD CHANDLER**

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Defendant Richard Chandler, Secretary of the Wisconsin Department of Revenue (the "Department") by and through their undersigned attorneys, hereby submits the following answers to Plaintiffs' complaint.

1. The Department responds that paragraph 1 of the complaint states legal conclusions to which no response is required.

**THE PARTIES**

2. The Department lacks sufficient knowledge or information to form a belief about the allegations in paragraph 2 of the complaint, and therefore denies the same.

3. The Department lacks sufficient knowledge or information to form a belief about the allegations in paragraph 3 of the complaint, and therefore denies the same. As to the last sentence in paragraph 3, the Department admits that Exhibit A is attached and that the document speaks for itself.

4. The Department lacks sufficient knowledge or information to form a belief about the allegations in paragraph 4 of the complaint, and therefore denies the same.

5. The Department lacks sufficient knowledge or information to form a belief about the allegations in paragraph 5 of the complaint, and therefore denies the same.

6. The Department admits the allegations in paragraph 6 of the complaint.

7. The Department admits the allegations in paragraph 7 of the complaint.

### **JURISDICTION AND VENUE**

8. The Department admits the allegations in paragraph 8 of the complaint.

9. The Department responds that paragraph 9 of the complaint states legal conclusions to which no response is required.

10. The Department admits the allegations in paragraph 10 of the complaint.

### **STATEMENT OF FACTS**

11. The Department denies the allegations in paragraph 11 of the complaint.

12. The Department admits that on May 17, 2017, the Brown County Board of Supervisors enacted an ordinance creating a 0.5% county sales and use tax that would go into effect on January 1, 2018. As to the last two sentences in paragraph 12, the Department admits that Exhibits B and C are attached and that the documents speak for themselves.

13. The Department admits the allegations in paragraph 13 of the complaint.

14. The Department admits the allegations in paragraph 14 of the complaint.

15. The Department lacks sufficient knowledge or information to form a belief about the allegation in paragraph 15 of the complaint, and therefore denies the same. To the extent a response is required, the Department states that the ordinance speaks for itself, and denies any characterization of the ordinance contrary to its express terms.

16. The Department lacks sufficient knowledge or information to form a belief about the allegations in the first sentence of paragraph 16 of the

complaint, and therefore denies the same. As to the second sentence in paragraph 16, the Department admits that Exhibit D is attached and that the document speaks for itself.

17. The Department lacks sufficient knowledge or information to form a belief about the allegations in the first two sentences of paragraph 17 of the complaint, and therefore denies the same. As to the third sentence in paragraph 17, the Department admits that Exhibit E is attached and that the document speaks for itself.

18. The Department lacks sufficient knowledge or information to form a belief about the allegations in paragraph 18 of the complaint, and therefore denies the same.

19. The Department lacks sufficient knowledge or information to form a belief about the allegations in paragraph 19 of the complaint, and therefore denies the same.

20. The Department denies the allegations in the first two sentences of paragraph 20 of the complaint. As to the third sentence in paragraph 20, the Department admits that Exhibit F is attached and that the document speaks for itself.

21. The Department lacks sufficient knowledge or information to form a belief about the allegations in paragraph 21 of the complaint, and therefore denies the same.

## CAUSES OF ACTION

22. The Department responds that paragraph 22 of the complaint states legal conclusions to which no response is required. To the extent a response is required, the Department states that Wis. Stat. § 77.70 speaks for itself, and denies any characterization of the statute contrary to its express terms.

23. The Department responds that paragraph 23 of the complaint states legal conclusions to which no response is required. To the extent a response is required, the Department states that Wis. Stat. § 66.0621(3m) and 2017 Wis. Act 58 speak for themselves, and denies any characterization of the statute or act contrary to their express terms.

24. The Department responds that paragraph 24 of the complaint states legal conclusions to which no response is required. To the extent a response is required, the Department states that Wis. Stat. § 77.70 speaks for itself, and denies any characterization of the statute contrary to its express terms.

25. The Department denies the allegations in the second sentence of paragraph 25. The Department responds that the remaining allegations in paragraph 25 state legal conclusions to which no response is required.

26. The Department responds that the allegations in paragraph 26 of the complaint state legal conclusions to which no response is required.

27. The Department responds that the allegations in paragraph 27 state legal conclusions to which no response is required. To the extent a response is required, the Department affirmatively alleges that the Attorney General Opinion referenced in paragraph 27 and attached as Exhibit G speaks for itself, and denies any characterization contrary to its express terms.

28. The Department responds that the allegations in paragraph 28 state legal conclusions to which no response is required. To the extent a response is required, the Department affirmatively alleges that the Attorney General Opinion referenced in paragraph 28 speaks for itself, and denies any characterization contrary to its express terms.

29. The Department responds that paragraph 29 of the complaint states legal conclusions to which no response is required.

30. The Department admits that OAG 1-98 and the requirement that sales and use tax revenues be used to directly reduce property tax levies both came before the Wisconsin Legislature enacted property tax levy limits. The Department also admits that counties were not subject to the levy limit until 2006. As to the third sentence in paragraph 30 of the complaint, the Department denies and affirmatively alleges that Wis. Stat. § 66.0602, which imposes levy limits, was created by 2005 Wis. Act 25.

31. The Department responds that paragraph 31 of the complaint states legal conclusions to which no response is required. To the extent a response is required, the Department states that Wis. Stat. § 66.0602 speaks for itself, and denies any characterization of the statute contrary to its express terms.

32. The Department responds that paragraph 32 of the complaint states legal conclusions to which no response is required. To the extent a response is required, the Department states that Wis. Stat. § 66.0602 speaks for itself, and denies any characterization of the statute contrary to its express terms.

33. The Department responds that paragraph 33 of the complaint states legal conclusions to which no response is required.

34. The Department responds that paragraph 34 of the complaint states legal conclusions to which no response is required. To the extent a response is required, the Department states that the projects listed in the ordinance speaks for themselves, and denies any characterization of the ordinance contrary to its express terms.

35. The Department denies the allegations in the first two sentences of paragraph 35. The Department responds that the third sentence in paragraph 35 states legal conclusions to which no response is required.

36. The Department responds that paragraph 36 of the complaint states legal conclusions to which no response is required.

37. The Department responds that paragraph 37 of the complaint states legal conclusions to which no response is required.

38. The Department responds that paragraph 38 of the complaint states legal conclusions to which no response is required.

39. The Department lacks sufficient knowledge or information to form a belief about the allegations in paragraph 39 of the complaint, and therefore denies the same.

40. The Department lacks sufficient knowledge or information to form a belief about the allegations in paragraph 40 of the complaint, and therefore denies the same.

41. The Department responds that paragraph 41 of the complaint states legal conclusions to which no response is required. To the extent a response is required, the Department lacks sufficient knowledge or information to form a belief about the allegations in paragraph 41 of the complaint, and therefore denies the same.

42. The Department responds that paragraph 42 of the complaint states legal conclusions to which no response is required.



## DEFENSES

1. If this Court dismisses the complaint as to Brown County, the entire action should be dismissed for failure to join an indispensable party. Wis. Stat. § 803.03(1), (3).

2. The Department reserves the right to name additional defenses, as they may become known through further discovery or otherwise in this action.

WHEREFORE, the Department requests dismissal of this action in its entirety, together with such other relief as the Court deems equitable and just.

Dated this 19th day of February, 2018.

Respectfully submitted,  
BRAD D. SCHIMEL  
Wisconsin Attorney General

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## CERTIFICATE OF SERVICE

I certify that in compliance with Wis. Stat. § 801.18(6), I electronically filed the foregoing Answer and Affirmative Defenses of Defendant Richard Chandler with the clerk of court using the Wisconsin Circuit Court Electronic Filing System, which will accomplish electronic notice and service for all participants who are registered users.

Dated this 19th day of February, 2018.

/s/ Jennifer L. Vandermeuse  
JENNIFER L. VANDERMEUSE