UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

LEGEND LAKE PROPERTY OWNERS ASSOCIATION, INC., TIMOTHY J. HOUSELOG, DAWN MAUTHE, ROBERT KLINGELHOETS, and RUSSELL TIMMERS,

Plaintiffs,

v.

MENOMINEE COUNTY, TOWN OF MENOMINEE, and MENOMINEE INDIAN SCHOOL DISTRICT,

Case No. 24-cv-1369

Defendants.

PLAINTIFF'S BRIEF IN OPPOSITION TO DEFENDANTS' MOTIONS TO DISMISS

The Defendants, Menominee Indian School District ("MISD") and Menominee County and Town of Menominee ("the County/Town") have moved to dismiss the First Amended Complaint under Rule 12(b)(1). For the reasons set forth below, the Court should deny the motions and allow the case to proceed. The history of the situation before the Court is set forth in the First Amended Complaint. ECF No. 23, First Am. Compl. ¶¶13-35.

The County/Town and MISD took actions and made policies which were unconstitutional because they were not for a legitimate governmental purpose, but were calculated to intentionally raise property taxes in order to make owning properties so expensive that the owners would sell their properties to the Menominee Indian Tribe of Wisconsin ("MITW"). First Am. Compl. ¶¶34, 36, 46, 67-71, 72-79, 83-103, 104-108, 109-111. The yearly assessed values and property taxes are set forth in the First Amended Complaint for Plaintiffs Houselog, Mauthe, Klingelhoets, and Timmers. First Am. Compl.¶¶3-8. These examples show that the taxes are very high as a percentage of assessed value, and the assessed values themselves are high. For example, from

2023 to 2024 the assessed value of Timmers's house rose 145% to $809,000 from $330,800, even though there had been no renovations or improvements in the last 10 years. Timmers' property taxes were $8,725.77 in 2023 and $9,886.9 in 2024. First Am. Compl. ¶8. However, the Plaintiffs receive very little in return for the property taxes that they pay each year: the majority of the roads are unpaved, there is little in the way of municipal utilities as most of the properties are on well and septic, there is an extremely small sheriff's department, and minimal budget for governmental staff. First Am. Compl. ¶12. The only reason that the mill rates paid by the Plaintiffs are comparable to some of the mill rates paid by residents of municipalities which provide the highest service levels in the state is that the entire levy falls upon the shoulders of a small minority in the County which is not exempt from property taxes. First Am. Compl. ¶12. The other reason for the high mill rate is that MISD levies significant taxes on the plaintiffs. First Am. Compl. ¶12.

Less than 1% of yearly property taxes in Menominee County comes from commercial or industrial taxes. First Am. Compl. ¶44. Upon information and belief, this is very different from the rest of the state where Commercial property taxes typically account for 25% to 33% of the tax revenue. First Am. Compl. ¶45. On information and belief, the County/Town has, via decisions by their final decision-making authority, avoided creating a commercial tax base as part of an intentional effort to increase the tax burden on the taxable properties of the Plaintiffs and the LLPOA and its members in order to force the sale of those properties to MITW. First Am. Compl. ¶45.

In 2006, the County entered into a special agreement with MITW whereby each year, MITW is allowed to provide the County with a list of properties that it *intends* to try to place into Trust. First Am. Compl. ¶67. Even though these properties are not *yet* in Trust, the County then takes these properties off the tax base for that year. First Am. Compl. ¶67. To date, 120 formerly taxable properties have been taken off the tax base even though the large majority of them have not been placed into trust. First Am. Compl. ¶69. In addition to the 120 properties removed from the tax base under the 2006 agreement, there are 154 properties that LLPOA believes that MITW has purchased over the past years using names associated with the efforts to transfer properties into Trust. First Am. Compl. ¶70. Even though these 154 properties are not in Trust, they are either not being taxed, or they have been taxed but no payment has been made and penalties continue to accrue but are not pursued by the County. First Am. Compl. ¶71.

In 2022, MISD notified taxpayers of an impending $35,000,000 school referendum to build a new 110,000 sq ft. high school for a student population of less than 300 ($52,000,000 total costs with interest and fees associated with the loan). First Am. Compl. ¶72. No real needs analysis was done to justify this high cost referendum. First Am. Compl. ¶75. MISD had been exploring a plan to renovate the school at a cost of only $14,000,000 which included funds for classrooms, a fieldhouse, and new bus garage, but then MISD hired a consulting firm to analyze what was the maximum amount that MISD could levy. First Am. Compl. ¶75.

MISD also increased its operating budget by $1,200,000 from 2022 to 2023 even though previous annual increases had been around $100,000 per year. First Am. Compl. ¶75. MISD never articulated any need or explanation for the $1.2 million budget increase from 2022 to 2023. First Am. Compl. ¶75. On information and belief, MISD simply increased its operating budget to the maximum amount allowable under applicable law calculated by their consultants. First Am. Compl. ¶75. MISD also essentially gave away public property to MITW by arranging for MITW to acquire the former middle school building, valued at $1.6 million, for only $1.00 First Am. Compl. ¶¶83-97. The decisions made by MISD were not made for legitimate reasons, but rather were made with the specific intention of increasing the tax burden on the property tax payers in the County with the motivation of making it expensive and uncomfortable for them to afford their properties so that MITW and its agents can more easily purchase their properties and offer them into Trust. First Am. Compl. ¶¶75-76. MISD was extremely well funded prior to the 2022 referendum and budget increase, at $25,000 per student, which is nearly $9,000 above the state average of $16,000 per student. First Am. Compl. ¶76. Based on the school bonds purchased by MISD pursuant to the referendum, the annual loan payments for the next 20 years will average over $2,500,000 per year, or nearly double the first year's $1,295,000 charge. First Am. Compl. ¶79. Most school boards across Wisconsin need to take taxpayer considerations into their planning, but this is not the case in Menominee County because the vast majority, if not all, of the students' families do not pay property taxes. First Am. Compl. ¶80. The $35,000,000 referendum, which is really a $52,000,000 referendum, causes a significant increase in the tax burden on the taxable properties of the Plaintiffs. First Am. Compl. ¶82.

In 2024, the Town increased the assessed values of the taxpaying properties on very short notice. On or around August 22, 2024, the taxpaying property owners in the Town received a letter from the Town's assessor indicating that their properties had been revalued. First Am. Compl. ¶104. For example, one property, owned by Mark and Amy Schoen located on Thunderbird Road on Legend Lake, was revalued from $313,800 to $693,200 which was a 120.9% increase. First Am. Compl. ¶105. The letter indicated that if landowners disagreed with the revaluation they were required to attend an open book on August 26, 2024. First Am. Compl. ¶106. Accordingly, the landowners had extremely limited time to prepare an objection and many received no effective notice if they were away at that time. First Am. Compl. ¶107. The revaluation, which in many cases was extremely unrealistic and unrelated to actual value, has the effect of increasing the equalized value of the taxing jurisdictions by almost 100% from 2021 to 2024, to over $690,000,000 of equalized value, which will then allow MISD to propose another referendum and borrow as much as another $34,000,000 which will have the effect of imposing substantial additional tax burdens on the property tax paying properties. First Am. Compl. ¶108.

In addition, throughout the Legend Lake community, houses that have been placed into Trust or are slated for transfer into Trust are often kept vacant, poorly maintained, or allowed to become dilapidated. First Am. Compl. ¶109. This is consistent with the alleged unconstitutional animus and motivation of driving the taxpaying landowners out of the County by creating a depressed or even blighted condition at Legend Lake which will coerce the Plaintiffs and LLPOA Members to sell and will eventually cause the values of their properties to decline to zero if left unchecked. First Am. Compl. ¶111.

These facts demonstrate that the Defendants' actions over the past years have been taken with the intent and purpose to continually increase the tax burden on the Plaintiffs and the LLPOA and its members' properties which are part of that very small portion of the taxable properties in the County. First Am. Compl. ¶103. The actions of the Defendants are a concerted effort to take the property of the Plaintiffs and the LLPOA and its members by forcing the property taxes to become so high that the owners of taxable land will be coerced into selling their land, which the Defendants' goal is to cause to be returned to the MITW. First Am. Compl. ¶103. As described above, the Defendants' actions are not consistent with legitimate governmental purposes such as meeting school needs or providing government services for the community. Rather, the Defendants' actions are unconstitutional.

The owners of non-tax-exempt property in Menominee County do not have political recourse against the County, the Town, and MISD because the majority of voters in the County do not pay property taxes, and can therefore vote their preferred candidates onto the County Board and the School Board, who then cause additional property tax burdens to fall on the minority, non-tax-exempt property owners, with no political consequence. First Am. Compl. ¶¶41-42. This problem of high tax bills and lack of tax base in Menominee County was identified in the 1998 Wisconsin Legislative Audit Bureau report. First Am. Compl. ¶50. Over the past 26 years since this report, very little progress has been made with regard to these concerns and in fact the situation has become worse. First Am. Compl. ¶51.

As a result of the Defendants' actions, the property tax-paying properties in Menominee County pay some of the highest taxes in the state and nation, as a percentage of property value. First Am. Compl. ¶100. And because there is a 3-to-1 voting advantage of non-property tax-paying to property tax paying voters in the County, the Town Board, County Board, and MISD School Board are dominated by leaders who are not impacted by the property tax increases they cause and approve. First Am. Compl. ¶101.

The Restoration Act was not intended to impose the unfair burden of being the entire county tax base on the owners of 1% of the County's land, or to create a situation where the landowners of 1% of the land in the county would be perpetually victimized by the government until they were eventually dispossessed of their land. The County, the Town, and MISD's actions in this context have given rise to the causes of action under the U.S. Constitution and Wisconsin Constitution pled in the Complaint. These causes of actions seek forward-looking relief from the existing practice and policy being implemented by the Defendants. Because of the allegations and federal causes of action pled in the Complaint, this Court has subject matter jurisdiction over this case, and the case should proceed.

Causes of Action Pled in the Complaint

The Defendants have not moved to dismiss for failure to state a claim. The Defendants' motions are solely based on jurisdiction. The Plaintiff reserves the right to make additional arguments regarding the claims in the Complaint if the Defendants bring a different motion against the claims, or on the merits. A brief summary of the claims in the Complaint, highlighting the facts relevant to the Defendants' motion, is as follows:

1. First Cause of Action: Equal Protection Under the 14th Amendment

As pled in the Complaint, the vast majority (99%) of land in the County is held in trust for MITW. First Am. Compl. ¶37. The Restoration Act provides that all trust property is tax-exempt. In addition to the trust land, there are additional properties in the County that are not in the trust but are unlawfully not being taxed. This is because in 2006, MITW and the County entered into an agreement whereby each year MITW is allowed to provide the County with a list of properties that it intends to try to place in the trust. First Am. Compl. ¶67. The County then takes those properties off the tax base for that year, even before they are actually placed in the trust by the U.S. First Am. Compl. ¶67. To date, 120 properties have been taken off the tax base from 2006 through 2023, but the large majority of them have not been placed into the trust. First AM. Compl. ¶69. In addition to these 120 properties, there are an additional 154 properties that MITW has purchased using names associated with the efforts to transfer land into the trust. First Am. Compl. ¶70. These 154 properties have not yet actually been placed in the trust, but they have either not been taxed for multiple years, or they are taxed but no payment has been made and the County has not pursued payment. First Am. Compl. ¶70. The tax classification of the taxpaying lots is the same classification as many lots that do not pay property taxes. First Am.

Compl. ¶38. For example, there are many residential lots in the County that do not pay any property tax, but the LLPOA members do pay property tax. First Am. Compl. ¶39.

For all these reasons, and as further set forth in the Complaint, the Defendants are depriving Plaintiffs of their 14th Amendment right to equal protection, by treating them differently than similarly situated landowners in the County and by taxing them differently and excessively. First Am. Compl. ¶114. "'The equal protection clause . . . protects the individual from state action which selects him out for discriminatory treatment by subjecting him to taxes not imposed on others of the same class.'" *Allegheny Pittsburgh Coal Co. v. County Comm'n of Webster County*, 388 U.S. 336, 345-46 (1989) (quoting *Hillsborough* v. *Cromwell*, 326 U.S. 620, 623 (1946)). The Defendants' treatment of the Plaintiffs is a spiteful effort to 'get' the Plaintiffs for reasons wholly unrelated to any legitimate state interest, because the Defendants' course of conduct has no legitimate public purpose and instead is based on an illegitimate ulterior motive to cause LLPOA's members' property to be acquired by the trust. First Am. Compl. ¶115, 117. Acquiring property for the trust is not a legitimate public purpose for Wisconsin municipalities and a Wisconsin public school district. The Defendants' course of conduct constitutes an actual or imminent injury fairly traceable to Defendants' actions by increasing the tax burden on the LLPOA's members' properties to such an extent that if allowed to continue the properties will be rendered valueless. First Am. Compl. ¶118.

2. Second Cause of Action: Substantive Due Process Under the 14th Amendment

As pled in the Complaint, the Defendants have violated Plaintiffs' right to substantive due process under the 14th Amendment by taking actions that have resulted in unfair and oppressive property taxes being charged to LLPOA and its members. First Am. Compl. ¶120. Despite being on notice that the tiny tax base has been causing inequitably high taxes for the

LLPOA members for many years, in recent years the Defendants have pursued policies of further decreasing the tax base by failing to tax properties that are not in trust but are only intended to eventually be in trust, by failing to pursue payment for some properties that are not paying their taxes, by deciding not to create a commercial tax base, and by pursuing a policy of facilitating the acquisition of non-trust land by MITW, which is then placed in the trust and made tax-exempt. First Am. Compl. ¶¶44-46, 67-71, 103. In addition, the Defendants have pursued a policy of dramatically increasing school spending as well as imposing a large school referendum on the tax base. First Am. Compl. ¶¶72-82. These actions have resulted in some of the highest tax rates in the state and in the nation. First Am. Compl. ¶100. These actions shock the conscience by showing a complete disregard for the rights of the Plaintiffs and LLPOA members by actively exacerbating the inequitably high property taxes, all in pursuit of the Defendants' intent and purpose of forcing the property taxes to become so high that the owners of the taxable land will be coerced into selling their land, which the Defendants' goal is to cause to be acquired by MITW. First Am. Compl. ¶103. The Defendants' course of conduct constitutes an actual or imminent injury fairly traceable to Defendants' actions by increasing the tax burden on the LLPOA's members' properties to such an extent that if allowed to continue the properties will be rendered valueless. First Am. Compl. ¶121.

3. Third Cause of Action: Violation of the Rule of Uniformity Set Forth in Article VIII, Section 1 of the Wisconsin Constitution

As pled in the Complaint, the Defendants' conduct violates the Rule of Uniformity set forth in Article VIII, Section 1 of the Wisconsin Constitution, which requires uniformity of taxation within each local jurisdiction. First Am. Compl. ¶¶125-126. In addition to the tax-exempt trust land in the County, the Defendants are failing to tax 120 parcels that are slated to become trust land but have not yet been placed in the trust, pursuant to the 2006 agreement with MITW. First Am. Compl. ¶69. The Defendants are also failing to tax 154 properties that have also not yet actually been placed in the trust, either by not taxing them for multiple years, or by not pursuing payment if they are taxed. First Am. Compl. ¶¶70-71. The tax classification of the taxpaying lots is the same classification as many lots that do not pay property taxes. First Am. Compl. ¶38. For example, there are many residential lots in the County that do not pay any property tax, but the LLPOA members do pay property tax. First Am. Compl. ¶39. The Defendants' course of conduct constitutes an actual or imminent injury fairly traceable to Defendants' actions by increasing the tax burden on the LLPOA's members' properties to such an extent that if allowed to continue the properties will be rendered valueless. First Am. Compl. ¶118.

4. Fourth Cause of Action: Inverse Condemnation Under the Wisconsin and U.S. Constitutions

As pled in the Complaint, the Defendants are inversely condemning the Plaintiffs' properties in violation of their rights under the 5th Amendment and Article I, Section 13 of the Wisconsin Constitution. First Am. Compl. ¶128. This is because the Defendants have taken the LLPOA's members' property by imposing such high property taxes that the properties become valueless and the owners are coerced into selling their properties to MITW. First Am. Compl. ¶103. The Defendants' course of conduct constitutes an actual or imminent injury fairly traceable to Defendants' actions by increasing the tax burden on the LLPOA's members' properties, which has already decreased their value and cost significant sums, and if allowed to continue the properties will be rendered valueless. First Am. Compl. ¶129.

5. Fifth Cause of Action: Unlawful Use of Eminent Domain Under the Wisconsin and U.S. Constitutions

As pled in the Complaint, the Defendants have deprived Plaintiffs of their 5th Amendment right under the "public purpose" clause of the 5th Amendment and Article I, Section 13 of the Wisconsin Constitution by taking the LLPOA's members' entire property through the course of conduct described above and in the Complaint. First Am. Compl. ¶131. The Defendants have taken the LLPOA's members' property by imposing such high property taxes that the properties become valueless and the owners are coerced into selling their properties to MITW. First Am. Compl. ¶103. Facilitating the acquisition of property by MITW is not a valid public purpose for a Wisconsin town, a Wisconsin county, and a Wisconsin public school district. The Defendants' course of conduct constitutes an actual or imminent injury fairly traceable to Defendants' actions by increasing the tax burden on the LLPOA's members' properties to such an extent that if allowed to continue the properties will be rendered valueless. First Am. Compl. ¶132.

Argument

I. Plaintiffs have standing to bring this case in federal court.

As explained above and shown in the First Amended Complaint, the Plaintiffs have clearly met the standard for standing by alleging actual or imminent personal injury to Plaintiffs, as a result of the Defendants' unlawful actions, which can be redressed by this Court. "A plaintiff must allege personal injury fairly traceable to the defendant's allegedly unlawful conduct and likely to be redressed by the requested relief." *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 342 (2006) (quoting *Allen v. Wright*, 468 U. S. 737, 751 (1984)).

Plaintiff LLPOA is a Wisconsin corporation with 501(c)(4) non-profit status, created in 1972 through filing articles of incorporation with the State of Wisconsin and the Menominee

County Register of Deeds. First Am. Compl. ¶1. Membership in LLPOA is appurtenant to lot ownership in the Legend Lakes development in Menominee County. First Am. Compl. ¶1. The owners of approximately 1,800 residential lots on Legend Lake make up the membership of LLPOA. First Am. Compl. ¶40. LLPOA owns several parcels of property on Legend Lake and pays property taxes on a yearly basis on that property. First Am. Compl. ¶1.

Plaintiffs Timothy J. Houselog, Dawn Mauthe, Robert Klingelhoets, and Russell Timmers are adult residents of the State of Wisconsin, who own property on Legend Lake and are members of LLPOA. First Am. Compl. ¶¶2, 3, 5, 7. The assessed values and property taxes for these Plaintiffs' properties are set forth in the First Amended Complaint, showing the high taxes and assessed value in recent years. First Am. Compl. ¶¶3, 4, 6, 8.

The Complaint is filled with allegations that the Defendants have undertaken a coordinated course of conduct that has imposed inequitably high property taxes on the properties owned by the members of LLPOA, including the Plaintiffs, which will worsen until the LLPOA's members are dispossessed. Contrary to the County/Town's brief, the First Amended Complaint added significant factual allegations which far surpassed "vague assertions" or "brief explanation." *See* ECF No. 29, County/Town Br. 3.

A plaintiff challenging his real estate taxes for property that he owns certainly has standing to do so. A plaintiff also has standing to challenge violations of his constitutional rights. Plaintiffs have have alleged that they and other LLPOA members are being charged inequitably high property taxes, that it is happening through a coordinated scheme, and that the Defendants are unconstitutionally taking their properties by facilitating the transfer of their properties to the MITW through the coercive use of unlawfully high taxes. Being charged unfairly high taxes, in ever increasing amounts, such that the owners are at imminent risk of losing their entire property due to the taxes being prohibitively expensive, is certainly an actual, personal injury.

A. Plaintiffs have direct standing.

Because LLPOA and the other Plaintiffs own property in Menominee County, and are facing high taxes due on their own property because of the Defendants' course of conduct, LLPOA and the other Plaintiffs all have direct standing in this case.

There are countless examples in state and federal court in which plaintiffs sued to challenge their own real estate taxes. *See, i.e.*, *Fair Assessment in Real Estate Association, Inc. v. McNary*, 454 U.S. 100, 105 (1981); *A.F. Moore & Associates, Inc. v. Pappas*, 948 F.3d 889 (7th Cir. 2020); *Rosewell v. LaSalle National Bank*, 450 U.S. 503, 537 (1981); *Noah's Ark Family Park v. Board of Review of the Village of Lake Delton*, 216 Wis. 2d 387, 573 N.W.2d 852 (1998). It is simply beyond dispute that a property owner has standing to challenge his own real estate taxes.

The *DaimlerChrysler* case cited by the Defendants is not at all controlling in the situation at bar. First of all, the taxpayers in *DaimlerChrysler* were not challenging their real estate taxes. The taxpayers in *DaimlerChrysler* were challenging a *state level* franchise tax credit and a municipal partial property tax waiver. *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 322, 338 (2006). The Supreme Court addressed the state level tax. *Id.* at 340, 354. The plaintiffs alleged that the challenged "franchise tax credit 'depletes the funds of the State of Ohio to which the Plaintiffs contribute through their tax payments' and thus 'diminish[es] the total funds available for lawful uses and impos[es] disproportionate burdens on' them." *Daimler Chrysler*, 547 U.S. at 343. This injury and theory of the case is totally different from what the Plaintiffs have alleged in the case at bar.

The Supreme Court explained, "[o]n several occasions, this Court has denied *federal* taxpayers standing under Article III to object to a particular expenditure of federal funds simply because they are taxpayers." *Id.* (emphasis in original). Therefore, the rule is that *federal* and *state* taxpayers do not have standing simply by being taxpayers because, "interest in the moneys of the Treasury…is shared with millions of others; is comparatively minute and indeterminable; and the effect upon future taxation, of any payment out of the funds, so remote, fluctuating and uncertain, that no basis is afforded for an appeal to the preventive powers of a court of equity." *Id*. (quoting *Massachusetts v. Mellon*, 262 U.S. 447 (1923)). The Supreme Court concluded that the plaintiffs did not have standing to challenge the *state* level franchise tax. *Id.* at 344.

However, the Court noted that the main part of its holding would not apply to *municipal* taxes. The *DaimlerChrysler* Court explained that state and federal taxpayers do not have standing simply by being taxpayers, but also noted that this rule does not apply to municipal taxpayers. The Supreme Court explained, "[t]he *Frothingham* Court noted with approval the standing of municipal residents to enjoin the 'illegal use of the moneys of a municipal corporation,' relying on 'the peculiar relation of the corporate taxpayer to the corporation' to distinguish such a case from the general bar on taxpayer suits." *Id.* at 349. In *DaimlerChryser*, the issue of standing for municipal taxpayers was not raised. *Id.* In the recent Seventh Circuit decision *Protect Our Parks, Inc. v. Chicago Park Dist.*, the court noted that, "[t]he rule remains undisturbed," and "in analyzing whether the plaintiffs' injury is cognizable, we will not ask whether it is concrete and particularized. Instead, we will ask only whether the elements of municipal taxpayer standing have been satisfied." *Protect Our Parks, Inc. v. Chicago Park Dist.*, 971 F. 3d 722, 733-36 (7th Cir. 2020). *See also Sebring v. Milwaukee Public Schools*, 569 F. Supp. 3d 767, 779-80 (E.D. Wis. 2021) ("the Supreme Court has not overruled its cases recognizing standing for municipal taxpayers, and therefore lower courts must continue to apply it.").

Here, the facts of this case are nothing like *DaimlerChrysler*. The Plaintiffs are not asserting standing simply by being taxpayers concerned with how the government is using its tax revenue. Rather, the Plaintiffs have alleged facts that fully establish injury in fact, traceability, and redressability due to its members being forced to pay unconstitutional taxes levied against their properties, and risking losing those properties entirely. Furthermore, the allegations make clear that Plaintiffs are municipal property tax payers, making MISD's citation of the *DaimlerChrysler* case inapposite. *See Hinrichs v. Speaker of House of Representatives*, 506 F.3d 584, 600 n.9 (7th Cir. 2007) ("[S]ince its first pronouncements on taxpayer standing, the Supreme Court has distinguished between the standing requirements for federal and state taxpayers, on the one hand, and municipal taxpayers on the other.").

Furthermore, it is beyond question that a landowner alleging an unconstitutional taking of his property and other violations of his constitutional rights has standing to sue. There are countless examples of Fifth Amendment takings claims and equal protection violation claims proceeding without anyone ever bringing a challenge to the plaintiff's standing. *See, i.e, Knick v. Township of Scott, Pennsylvania*, 588 U.S. 180, 139 S.Ct. 2162, 2170 (2019); *Village of Willowbrook v. Olech*, 528 U.S. 562, 564 (2000). It is abundantly clear that LLPOA and the other Plaintiffs have standing as property tax-payers.

B. Plaintiffs' complaint meets the injury in fact requirement.

Plaintiffs certainly alleged a "concrete and particularized" and "actual or imminent" injury and satisfied the injury in fact requirement. See *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992). Plaintiffs alleged that they have already been charged inequitably high taxes in recent years, due to the Defendants' unconstitutional conduct. This is not a "generalized grievance about the conduct of government." ECF No. 27, MISD Br. at 7 (quoting *Democratic Party of Wis. v. Vos*, 966 F.3d 581, 585 (7th Cir. 2020)). As explained above, the *DaimlerChrysler* facts and holding do not apply to the case at hand. The County/Town argue that "Plaintiffs fail to identify the injury that gives them standing to proceed." ECF No. 29, County/Town Br. 5. This statement is mysterious as the County/Town also claims that the Plaintiffs did not make "any individual complaints" despite the fact that the Plaintiffs did identify the tax rates and increase in assessed values of the individual Plaintiffs. *Id.* The Plaintiffs clearly identified the very high tax rates they are being subjected to, and alleged that these high tax rates will destroy the values of their properties and drive them out of their properties. First Am. Compl. ¶¶3-2-8, 36, 46, 103. These are not "blanket" allegations. See ECF No. 29, County/Town Br. 5.

MISD calculates that the Plaintiffs' property tax rate in 2022 was 2.74%. ECF No. 27, MISD Br. 3. MISD calculates that the Plaintiffs' property tax rate in 2024 was 1.17% (due to the assessed value of the properties increasing dramatically from 2023 to 2024). *See id.* This 2022 rate compares or exceeds what taxpayers in Wisconsin's dense urban communities with the highest service levels pay. Despite living in a County with unpaved roads, minimal municipal utilities, an extremely small sheriff's department, a minimal budget for governmental staff, and school district with just one high school and one middle school, the Plaintiffs are paying property taxes that are comparable or exceed the property taxes in municipalities with the highest service levels. The 2024 rate only appears to have decreased because the Defendants conducted a revaluation that made the assessed values unrealistically high. First Am. Compl.

¶108. Despite this maneuver, the rate is still high for the amount of government services the Defendants provide.

MISD tries to "boil down" the Plaintiffs' claims to "one central theme" but in so doing totally misstates the Plaintiffs' cases. ECF No. 27, MISD Br. 9. MISD claims that the case's theme is: because MISD does not levy taxes on Trust property, the Plaintiffs' property taxes are unconstitutionally high which is a taking of their property. *Id.* This both misstates and understates the Plaintiffs' case. The Plaintiffs alleged that the Defendants took numerous steps, unrelated to legitimate governmental purposes, to levy extremely high taxes on the Plaintiffs, including: failing to tax similar properties which are *not* in Trust, failing to enforce penalties on *non-Trust* properties that have stopped paying taxes, initiating a school referendum for a very high amount without a needs analysis, inflating the school operating budget without a needs analysis, giving away school property, intentionally failing to create a commercial tax base, and revaluing the taxpaying parcels with only a few days notice for challenging the reassessments. First Am. Compl. ¶¶67-71, 72-82, 83-98, 44-46, 104-108. The Defendants took these actions, in violation of the Plaintiffs' equal protection and other constitutional rights, not for legitimate governmental purposes but for the unconstitutional purpose of aiding MITW in its goal of acquiring properties to place in Trust. First Am. Compl. ¶103.

This is not at all the "same" argument made by the Plaintiffs in the *DaimlerChrysler* case. *See* ECF No. 27, MISD Br. 9. Plaintiffs alleged the specific amounts of inequitably high taxes that they have already been charged, as well as the reasons why those amounts were unconstitutionally high. First Am. Compl. ¶¶3-8, 67-71, 72-82, 83-98, 44-46, 104-108. Plaintiffs alleged facts to support the conclusion that these amounts and the Defendants' conduct will continue in the immediate near future. *Id.* Plaintiffs alleged facts that these amounts are so high that they amount to a scheme to take the Plaintiffs' property by driving them to sell. *Id.* This sufficiently alleged the injury in fact needed to establish standing.

The County/Town also makes a confusing and undeveloped argument regarding whether the Plaintiffs' injuries are legally cognizable. Like MISD, the County/Town first oversimplifies the Plaintiffs' allegations by claiming that the case is just about the Defendants not taxing certain property, thereby increasing the taxes of LLPOA members. ECF No. 29, County/Town Br. 5. The County/Town writes, "In addition to establishing that the defendants **<u>cannot</u>** legally tax property owned by tax exempt members of the Menominee tribe, MISD also establishes, that this allegation does not constitute an 'injury in fact' and fails to establish standing." ECF No. 29, County/Town Br. 6. This statement is either an inaccurate paraphrase of the fact that property owned by the United States in Trust for the Menominee Tribe (in the Menominee Reservation) is tax exempt, or the statement is incorrect. Property owned by members of the Menominee tribe (outside the Menominee Reservation) is *not* tax exempt. The County/Town does not offer any support for an argument that the properties that the Defendants are not taxing pursuant to the 2006 agreement, which are not in Trust, cannot legally be taxed.

C. Plaintiffs' complaint meets the causality requirement.

The First Amended Complaint clearly outlines why the high property tax injuries suffered by the Plaintiffs are fairly traceable to the actions of the Defendants, as explained above, and the Defendants do not argue anything to the contrary for this element. Therefore, this element of standing is met.

D. Plaintiffs' complaint meets the redressability requirement.

Federal Courts in the United States have the power to issue detailed injunctions to abate violations of the Constitution. Examples include prison reform, the reform of mental institutions, environmental protection, public housing, and school desegregation. A series of cases that illustrate the use of injunctions in the prison reform context began with *Holt v. Sarver*, 300 F. Supp. 825 (E.D. Ark. 1969) (*Holt I*). The *Holt I* court stated, "the Court may and should intervene to protect those rights and to put an end to unconstitutional practices." *Id*. at 827. The Supreme Court has explained that while "state and local authorities have primary responsibility for curing constitutional violations ... [if the] authorities fail in their affirmative obligations. . . judicial authority may be invoked. ... Once invoked, 'the scope of a district court's equitable powers to remedy past wrongs is broad, for breadth and flexibility are inherent in equitable remedies.'" *Hutto v. Finney*, 437 U.S. 678, 687 n.9 (1978) (citing *Milliken* v. *Bradley*, 433 U. S. 267, 281 (1977); *Swann v. Charlotte-Mecklenburg Board of Education,* 402 U. S. 1, 15 (1971)). The *Holt I* case was followed by *Holt v. Sarver*, 309 F. Supp. 362, 381 (E.D. Ark. 1970) (*Holt II*) and then by *Holt v. Hutto*, 363 F. Supp. 194, 217 (E.D. Ark. 1973) (*Holt III*). The entire situation was ultimately addressed by the United States Supreme Court in *Hutto v. Finney*, 437 U.S. 678, 687 n.9 (1978).

The opinion in *Hutto* explained that "[a]fter finding that conditions in the Arkansas penal system constituted cruel and unusual punishment, the District Court entered a series of detailed remedial orders." *Id*. at 680. The judicial intervention in the *Hutto* matter began with a generalized order that the Department of Corrections "'make a substantial start' on improving conditions and to file reports on its progress." *Hutto*, 437 U.S. at 683. When this failed, the district court "issued guidelines, identifying four areas of change that would cure the worst evils

... [and] ordered [the Department of Corrections] to move as rapidly as funds became available." *Id.* Later, the district court entered even more detailed orders. *Id*. at 684-85. The district court also made "an express finding that petitioners had acted in bad faith" and ordered the Department of Corrections to pay the petitioners' attorney fees. *Id.* The entire saga had a somewhat happy ending when on August 9th of 1982 the Department of Corrections was finally found to be in compliance. *Finney v. Mabry,* 546 F.Supp. 628, 630 (E.D.Ark.1982).

In *Brown v. Board of Education*, 349 U. S. 294 (1955) (*Brown II*), the Court opened its opinion by stating that racial discrimination in public education was inherently unequal. *Id*. at 296. The *Brown II* Court, having solicited and reviewed briefing from the multiple parties and *amicii*, noted that while local "authorities have the primary responsibility for elucidating, assessing, and solving these problems" that it would be the function of the courts to "consider whether the action of school authorities constitutes good faith implementation of the governing constitutional principles." *Id*. at 299. Thus, the *Brown II* Court remanded the matters to the local courts and authorities to implement solutions that were appropriate for each local situation.

This case presents an unintended consequence of the Restoration Act that can and should be remedied. "[R]edressability requires that the court be able to afford relief through the exercise of its power." *Haaland v. Brackeen*, 599 U.S. 255, 294 (2023). The Restoration act envisions MITW members periodically obtaining parcels of property and offering them into Trust. The Restoration Act stipulates that as this happens, those properties are taken off of the tax rolls and become non-taxable properties. Under this framework the number of taxable properties will slowly dwindle. If the number of taxable properties reaches zero, the County and Town and MISD will have to fund themselves entirely without property tax revenue of any type. For the time being, however there are a limited number of remaining taxable parcels in the County, but as pled in this matter, their tax burden is increased each year, in excess of any legitimate need, for the reason of unconstitutionally "driving off" the Plaintiffs and similarly situated landowners from their properties.

The Complaint asks the Court to "Enjoin any further unconstitutional actions of the type pled in this Complaint." In context of the actions pled in the complaint, this request for an injunction is sufficiently specific, and it requests relief that is well within the authority of the Court. The complaint describes specific acts of the Town, County, and MSID, such as the disposal of school assets, the acquisition of significant debt, and the failure to tax non-trust property. As alleged in the complaint, these acts were taken to discriminate against the Plaintiffs and to take their property for the benefit of MITW in violation of the Constitution. It is sufficiently specific, and within the authority of the Court, to issue an injunction enjoining such acts, and further unconstitutional actions of this type.

Recall that the Restoration Act seems to have contemplated that the tax burden on taxpaying properties in the County would actually decrease. First Am. Compl. ¶105 ("Our conclusion is that neither of the above concerns will be realized. If anything, tax rates in Menominee County should decrease, not increase, after restoration.") Depending on the facts that are discovered and proven during the litigation process, the injunction could address the specific acts in the complaint or read as broadly as:

> 1) Menominee County and the Town of Menominee are ordered to create and implement a plan to afford property tax relief to all taxpaying parcels that will ensure that each parcel of taxable property within Menominee County is granted property tax relief such that no parcel of taxable property pays an amount of property tax per thousand dollars of value which deviates by more than 10% above the average amount of property tax charged per thousand dollars of value in Shawano County.
> 2) MISD is ordered to create and implement a plan that will ensure that MISD funding will be primarily obtained from sources other than the taxation of the taxable parcels within the County and that no parcel of taxable property within Menominee County and the Town of Menominee shall be charged an amount of additional tax by MISD which deviates by more than 10% above the average amount of additional tax charged per

> thousand dollars of value in Shawano County by the school district taxing jurisdictions located in Shawano County.
> 3) The Town of Menominee, Menominee County, and the MISD are ordered to implement immediate measures to ensure that all taxable parcels are taxed in a uniform manner, and that no parcels are left untaxed pursuant to the 2006 agreement or otherwise.
> 4) The Town of Menominee, Menominee County, and the MISD are ordered to implement immediate measures to ensure enforcement of penalties on non-Trust properties that have stopped paying taxes.
> 5) The Town of Menominee, Menominee County, and the MISD are ordered to create and implement a plan to document and ensure that no financial decisions are based on the unconstitutional motivation of increasing the tax burden on the Plaintiffs, to provide transparency, and to document sound cost-benefit analyses.
> 6) The Court shall retain jurisdiction of this matter to ensure adequate compliance with this order.

Again, depending upon what is learned during discovery, other details of the injunction might be appropriate in addition to, or in lieu of, those suggested above.

The Plaintiffs' requested relief is not similar to *Duncan Place Owners Association* case. *See* ECF No. 29, County/Town Br. 6. In contrast to *Duncan Place*, a declaratory judgment that the Defendants' conduct is unconstitutional would "settle the controversy" between the Plaintiffs and the Defendants because it would require the Defendants to act differently moving forward. *Duncan Place Owners Association v. Danze, Inc.*, 927 F.3d 970, 977078 (7th Cir. 2019). In *Duncan Place* the damage was limited to faulty faucets that had caused one time damage, in the past. Here, the Plaintiffs have alleged ongoing unconstitutional conduct that will continue into the future, without Court intervention.

Finally, MISD argues that the Court could not enjoin properties being placed into Trust. ECF No. 27, MISD Br. 12. During the Restoration Act hearings, advocates for the Restoration Act clearly envisioned that properties in Menominee County could be placed into Trust *without* an inequitable tax burden falling on the remaining private landowners. MISD makes another incorrect argument against the allegation that it is acting with the improper motivation of driving up the Plaintiffs' taxes so that their properties will end up in Trust, by arguing that "the last entity that would want all MISD property to be placed into trust is MISD itself – if all of its territory were held in trust, MISD would not be able to exist, as it depends on property tax dollars to fund its operations. Without any property tax dollars, there is no school district." ECF No. 27, MISD Br. 12. However, at the hearing on MISD's first motion to dismiss, counsel for MISD explained that "there's a lot of buckets that school funding comes from" and admitted that a significant source of funds for MISD is the federal government. Transcript of April 22, 2025 Hrg, 5:6-14. Therefore, decreased local property tax revenue for MISD would not result in MISD ceasing to exist.

II. The Court has subject matter jurisdiction.

A. The Tax Injunction Act does not bar this case.

The Tax Injunction Act only removes federal jurisdiction to enjoin state tax matters "where a plain, speedy, and efficient remedy may be had in the courts of such State." 28 U.S.C. § 1341. The Defendants have not identified a "plain, speedy, and efficient remedy" available in state courts. The Defendants have blankly stated that Wis. Stat. § 74.35, "Recovery of Unlawful Taxes" is the state law remedy to which the Plaintiffs should have availed themselves, however the Defendants do not develop their argument in the legal sense. Instead of developing their legal argument, the Defendants argue that one of LLPOA's Directors has been involved in a separate state court lawsuit, with a different plaintiff, captioned *Menominee County Taxpayers Association v. Menominee Indian School District, et al.*, Menominee County Case No. 23-CV-02. The Defendants argue that the different plaintiff in that case brought claims under Wis. Stat. § 74.35. ECF No. 27, MISD Br. 15.

However the Defendants do not develop a legal argument explaining how the claims in the above-captioned case could be brought under state law. Wis. Stat. § 74.35 allows a person to file a claim to recover an "unlawful tax" assessed against his or her property. The text of Wis. Stat. § 74.33 lays out a very limited and specific list of errors that give rise to a rebate claim under the "unlawful tax" framework of Wis. Stat. § 74.35. The Defendants do not develop an argument as to which category of Wis. Stat. § 74.33 they believe applies to this case. Notably absent from the list of "unlawful taxes" in Wis. Stat. § 74.33 is any right to challenge a situation where the allegations are that one or more units of government are working together to intentionally manipulate the mechanism of taxation as a means of acquiring private property of United States Citizens for the benefit of an inherently sovereign Tribal Entity, and without paying just compensation. There is also no item on the list that addresses any other constitutional claims. Because the Defendants do not develop any argument as to how Wis. Stat. § 74.35 and § 74.33 would provide a "plain, speedy and efficient remedy" or even how it would apply to this case at all, their undeveloped argument should be ignored. *See Judge v. Quinn*, 612 F.3d 537, 557 (7th Cir. 2010).

This is not shifting the burden of establishing a plain, speedy, and efficient remedy onto the Defendants. Plaintiffs submit that they have established that a plain, speedy, and efficient remedy is not available in this brief. However, to some extent this requires the Plaintiffs to prove a negative. Therefore, if the Defendants had any suggestions for Wisconsin remedies, as a matter of persuasion, they should have set them forth in their moving brief. The only remedy that the Defendants put forth was Wis. Stat. § 74.35, which the Plaintiffs have thoroughly met the burden of establishing in this brief, does not provide a plain, speedy, and efficient remedy.

We know from *A.F. Moore & Associates* that not every piece of state legislation which provides for tax rebates in some circumstances satisfies the TIA, and that to satisfy the TIA the state remedy must allow a "'full hearing and judicial determination' at which [the taxpayer] may raise any and all constitutional objections to the tax....” *A.F. Moore & Associates, Inc. v. Pappas*, 948 F.3d 889, 893 (7th Cir. 2020) (quoting *Rosewell v. LaSalle Nat'l Bank*, 450 U.S. 503, 515-16 n.19, (1981)). While it is true that the TIA is applied “restrictively because the Act is meant to dramatically curtail federal-court review” of municipal taxation, the TIA clearly does not close the doors of the federal courthouse in all situations. *Id*.

The facts pled in the Complaint far exceed the scope of any garden variety tax proceeding because they involve the long and somewhat troubled history of the Restoration Act, and allege a complicated scheme to use the mechanisms of municipal taxation to confiscate private property that the Restoration Act intended to protect. Unlike the situation in *McNary*, this is not a typical property tax challenge in which homeowners are dissatisfied with the valuations placed on their homes. *See Fair Assessment in Real Estate Association, Inc. v. McNary*, 454 U.S. 100, 106 (1981). Nor is Plaintiffs' case likely to throw state taxation practices into “disarray” because the facts of this case are limited to the unique circumstances of the effect of the Restoration Act on a discrete set of landowners. *See Rosewell v. LaSalle Nat'l Bank*, 450 U.S. 503, 527 (1981). Resolving this situation will require Federal Court intervention to craft specific injunctive or similar relief to provide durable guardrails which will guide the litigants into a more just future.

It also bears noting that in the *Menominee County Taxpayer's Association v. Menominee Indian School District, et al.,* Menominee County Case No. 23-CV-02, the Defendants themselves raised uncertainty regarding the availability of a remedy under Wis. Stat. § 74.35. “‘[U]ncertainty concerning a State's remedy may make it less than “plain” under 28 U. S. C. § 1341.'” *Rosewell v. LaSalle National Bank*, 450 U.S. 503, 516-17 (1981) (quoting *Tully* v. *Griffin, Inc.,* 429 U. S. 68, 76 (1976)). In Case No. 23-CV-02, the Town, County, and MISD apparently argued that Wis. Stat. § 74.35 *did not* provide a remedy to MCTA. MISD even argued that Wis. Stat. § 74.35 does not apply *at all* to MISD because, according to their position in the other case, MISD is a "taxing Jurisdiction" and therefore outside of the ambit of Wis. Stat. § 74.35: "Procedurally, Wis. Stat. § 74.35 does not apply to claims alleging error by a *Taxing Jurisdiction* such as MISD." Menominee County Case No. 23-CV-02, ECF No. 71, MISD Brief in Support of Motion to Dismiss Amended Complaint and Third Party-Complaint, at 6. MISD then argued that "Wis. Stat. § 74.35 is Inapplicable to Plaintiff's Claims." *Id.* MISD argued that MCTA's claims were not "arithmetic, transpositional or other errors," in reference to Wis. Stat. § 74.33(1)(f). *Id.* at 9.

The County also argued that Wis. Stat. § 74.35 would not be the correct remedy for allegations that the County was failing to collect taxes on taxable properties in the County: "If the allegation by Plaintiff is that the County is purposefully failing to collect taxes on properties it is lawfully able to tax, as improperly alleged in the complaint, the only possible resolution does not fit the requirements of Wis. Stat. § 74.35." Menominee County Case No. 23-CV-02, ECF No. 79, County's Brief Joining Third-Party Defendant's Motion to Dismiss Plaintiff's Amended Complaint, at 5. In this case, the Defendants argue that Wis. Stat. § 74.35 is a "plain, simple, and efficient" remedy for these claims, yet in the state MCTA case, the Defendants argued that Wis. Stat. § 74.35 was not available. This alone should demonstrate that a remedy under Wis. Stat. § 74.35 is not at all plain, and that this Court should allow the claims in this case to proceed. Lastly, if the Defendants are contending that the Plaintiffs were required to bring their 42 U.S.C. § 1983 claim in state court, this is simply incorrect. *Rosewell v. LaSalle National Bank*, 450 U.S. 503, 537 (1981).

The recent *Ghelf* case does not require dismissing the Plaintiffs' claims in this case. In *Ghelf*, the plaintiffs were challenging an inaccurate tax assessment and tax foreclosure of their property. *Ghelf v. Town of Wheatland*, 132 F.4th 456, 463-64 (7th Cir. 2025). The court held:

> The tax assessment and foreclosure claims for injunctive and declaratory relief are therefore barred by the TIA as long as a "plain, speedy and efficient remedy" is available. *Id.*
>
> The district court correctly concluded that the plaintiffs had such a remedy. It noted that "Wisconsin Stat. Chs. 70 and 74 provide a comprehensive scheme for challenging property tax assessments, which the state court determined that MSR did not follow."[17] Moreover, continued the district court, "federal courts have repeatedly held that Wisconsin's processes for challenging tax determinations and foreclosures meet the requirement for a plain, speedy, and efficient state court remedy."[18] In sum, the district court correctly held that MSR's plain, speedy, and efficient remedy was its opportunity to challenge the tax assessments in the state writ of mandamus proceedings and that MSR simply did not take advantage of this opportunity.

Ghelf, 132 F.4th at 466-67. Here, however, the Plaintiffs are not challenging the state tax system by challenging an assessment or foreclosure action. Rather, the Plaintiffs' claims are that the Defendants have taken actions to ensure that the taxes will be extremely high, with the goal of helping MITW acquire more properties.

Again, MISD argues that the Plaintiffs' claims can be "boil[ed] down to a single premise." ECF No. 27, MISD Br. 15. Again, this is not true. Plaintiffs' claims are that MISD and the other Defendants have taken multiple unconstitutional steps (failing to tax similar properties which are not in Trust, failing to enforce penalties on non-Trust properties that have stopped paying taxes, initiating a school referendum for a very high amount without a needs analysis, inflating the school operating budget without a needs analysis, giving away school property, intentionally failing to create a commercial tax base, and revaluing the taxpaying parcels with only a few days notice for challenging the reassessments) to raise the Plaintiffs' property taxes with the unconstitutional motivation of driving them out for the benefit of a third party, MITW.

B. The doctrine of comity does not bar this case.

If this case is not barred by the Tax Injunction Act, then it is also not barred by the doctrine of comity. "The Court has explained that the 'plain, adequate, and complete' requirement in the comity analysis is identical to the 'plain, speedy and efficient' requirement under the Tax Injunction Act." *A.F. Moore & Associates, Inc. v. Pappas*, 948 F.3d 889, 895 (7th Cir. 2020) (citing *Fair Assessment in Real Estate Ass'n v. McNary*, 454 U.S. 100, 116 n.8 (1981)). The circumstances of this case have nothing to do with the *Levin v. Commerce Energy, Inc*. case cited by the Defendants. *Levin* involved a challenge to Ohio's state-level regulatory framework for taxing natural gas distributors. *Levin v. Commerce Energy, Inc.*, 560 U.S. 413, 130 S.Ct. 2323, 2328 (2010). Unlike the purely state-level regulation in *Levin*, the case at bar addresses a problem inextricably intertwined with federal causes, which will require a federal solution.

MISD uses the *Levin* case to draw an analogy to the case at hand, but in so doing again incorrectly oversimplifies the Plaintiffs' claims as: "Plaintiffs (including LLPOA's members" think it is unfair that it costs more for them to own property within MISD's boundaries than it does for those who are exempt from paying property taxes." ECF No. 27, MISD Br. 18. But this is not an accurate summary of Plaintiffs' claims. For one thing, one specific allegation was that Plaintiffs are being unfairly taxed in comparison to *non-exempt* properties who are not paying taxes. First Am. Compl. ¶¶70-71. Plaintiffs also alleged numerous other actions by the Defendants that are not at all limited to the fact that Trust properties are tax exempt: the Defendants failing to tax similar properties which are not in Trust, fail to enforce penalties on non-Trust properties that have stopped paying taxes, initiated a school referendum for a very high amount without a needs analysis, inflated the school operating budget without a needs analysis, gave away school property, intentionally failed to create a commercial tax base, and revalued the taxpaying parcels with only a few days notice for challenging the reassessments. First Am. Compl. ¶¶67-71, 72-82, 83-98, 44-46, 104-108.

This is another reason why the Defendants' argument that Wis. Stat. § 74.35 provides a "plain, adequate, and complete" remedy fails: the troubles engulfing the LLPOA members and Menominee County are deeply intertwined with federal causes of these problems, and can only be adequately addressed on the federal level. This has long been recognized by the State of Wisconsin, as documented in the 1998 Wisconsin Legislative Audit Bureau Report. ECF No. 2-3, at 3. Needless to say, this conclusion, that state and federal intervention were necessary to ward off the financial problems besetting Menominee County taxpayers, shows that this is a completely different situation than the ordinary municipal taxpayer dissatisfied with his local taxes. The 1999 Report of the Menominee County Management Review Task Force to the Wisconsin Legislature, which was formed to suggest solutions to the problems laid out in the 1998 Wisconsin Legislative Audit Bureau Report, also concluded that the County's property tax problems were a federal problem requiring a federal solution. ECF No. 2-4, at 1, 27. These sources explain how the County is in an "untenable" situation that was caused in large part by federal actions, and requires federal intervention.

III. The Court should exercise jurisdiction over the entire case, including supplemental jurisdiction over the Plaintiff's state law claim.

Because, as outlined above, the Court has proper subject matter jurisdiction over the federal claims in this case, the Court should also exercise supplemental jurisdiction over LLPOA's state law claims, and the case should proceed on the merits.

Conclusion

For the above reasons, the Court should deny the Defendants' motions to dismiss and allow the case to proceed on the merits.

Dated this 3rd day of July, 2025.

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