

TEARMAN SPENCER

City Attorney

CELIA M. JACKSON

Special Deputy City Attorney

ODALO J. OHIKU

ROBIN A. PEDERSON

YOLANDA Y. MCGOWAN

TODD FARRIS

Deputy City Attorneys



Milwaukee City Hall Suite 800 • 200 East Wells Street • Milwaukee, Wisconsin 53202-3551
Telephone: 414.286.2601 • TDD: 414.286.2025 • Fax: 414.286.8550

HEIDI WICK SPOERL
GREGG C. HAGOPIAN
KATHRYN Z. BLOCK
THOMAS D. MILLER
JEREMY R. MCKENZIE
PETER J. BLOCK
JENNY YUAN
ALLISON N. FLANAGAN
HEATHER H. HOUGH
ANDREA J. FOWLER
PATRICK J. MCCLAIN
ELLENY B. CHRISTOPOULOS
HANNAH R. JAHN
JULIE P. WILSON
GREGORY P. KRUSE
JAMES M. CARROLL
MEIGHAN M. ANGER
ALEXANDER R. CARSON
ALEX T. MUELLER
ALEXANDER COSSI
LISA A. GILMORE
NICHOLAS R. SINRAM
TAVISS K. SMITH
KATHERINE A. HEADLEY
ANTHONY JACKSON
JOHN D. MCNALLY
STACY J. MILLER
Assistant City Attorneys

April 4, 2022

Via Email

Quinn Williams (qwilliams@uwsa.edu)

Jennifer Lattis (jlattis@uwsa.edu)

Joely Urdan (jurdan@uwsa.edu)

Alicia Boll (aboll@uwsa.edu)

**Re: City of Milwaukee Historic Preservation Ordinance 320-21, and
Wis. Stat. §§13.48 and 62.23**

Dear UWS and UWM Representatives:

We acknowledge receipt of your March 31, 2022 letter about historic designation of 2015-2025 E. Newport Ave., Milwaukee (the **Property**).

Your letter relies on Wis. Stat. §44.40. You explain that the University of Wisconsin System Board of Regents (**UWS**) – prior to the buildings at the Property being temporarily designated historic by Milwaukee’s Historic Preservation Commission (**HPC**) on March 7, 2022 (Council File 211685) - agreed to a mitigation plan with the Wisconsin Historical Society (**WHS**), under Wis. Stat. §44.40, regarding UWS’s intent to demolish the buildings at the Property.

You were previously provided with two prior City Attorney Opinions confirming HPC jurisdiction over State and County properties. In our July 6, 1984 Opinion, we concluded that UWM buildings are subject to Milwaukee HPC jurisdiction and subject to Milwaukee’s HPC ordinance. This has been the position of the Office of the City Attorney for the past 38 years.

Both of our opinions relied upon the Legislature’s distinction regarding the applicability of local building and zoning ordinances to state-owned property. State property is not subject to local building codes. But state property is, under § Wis. Stat. 13.48 (13), subject to local zoning ordinances.

As you know, Milwaukee’s Historic Preservation Ordinance was enacted pursuant to the zoning power granted by Wis. Stat. § 62.23 (7)(em). Under § 62.23 (7)(am), any zoning ordinance enacted by the City of Milwaukee, which includes Milwaukee’s HPC ordinance, MCO §320-21, “shall be liberally construed in favor of” the City.



The buildings on the Property have been given an interim designation as historic (Council File 211685), meaning that UWS and UWM may not demolish the buildings without an HPC-issued Certificate of Appropriateness (COA) for demolition. MCO §320-21-13.

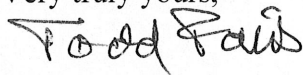
HPC will hold a hearing on the possible permanent historic designation of the buildings at the Property on Monday April 4, 2022 (Council File 211686). UWS and UWM will have the opportunity at the hearing to present their case in opposition to permanent designation. We encourage you to take advantage of that opportunity.

As noted above, if permanent historic designation is granted, UWS and UWM can apply to HPC for a COA to demolish the buildings at the Property. MCO §320-21-11. A denial of an application for a COA can also be appealed to the full Common Council. Wis. Stat. §62.23 (7)(em)3.

If HPC grants permanent historic designation on Monday, to avoid unnecessary litigation, we request written confirmation from UWS and UWM that it will not commence any demolition activities at the Property or alter any exterior of any buildings at the Property unless and until a COA is granted by the HPC, or until a decision by the Common Council is made on any appeal that UWS or UWM may make which overturns historic designation.

As part of our effort to resolve this matter without litigation, the City has reached out to staff at the Wisconsin State Historic Preservation, who we are copying in on this letter. We urge you to also consult with them regarding your position that UWS and UWM are not subject to Milwaukee's Historic Preservation ordinance.

Very truly yours,



Todd Farris
Deputy City Attorney

C (via email):

Tim Askin, HPC
ACA Gregg Hagopian
State SHPO's, Chris Meyers, Daina Penkiunas, and Tyler Howe
Alderman Nik Kovac

CADB01-279759