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City of Milwaukee
Office of the Common Council – City Clerk
200 E. Wells Street, Room 205
Milwaukee, WI 53202

RE: Proposed Substitute Ordinance Relating to DNS Enforcement of Code Violations for Multi-Unit Residential Properties (File #251773), and
Proposed Ordinance Relating to Penalties for Code Violations on Multi-Unit Residential Nuisance Properties (File #252240)

Dear Zoning, Neighborhoods & Development Committee:

As the attorney and lobbyist for the Rental Property Association of Wisconsin, Inc. (RPA), I write on its behalf in regard to the above-referenced proposed substitute ordinance and proposed ordinance.

The Rental Property Association of Wisconsin, Inc., founded in 1974, is an association of over 800 rental property owners. The RPA is available as a resource to state and local government representatives, and works closely with other advocacy groups, such as the Rental Housing Resource Center, of which the RPA is a founding member.

The RPA received notice of this hearing on Thursday, April 30, 2026, with two working days between the receipt of the notice of hearing and the hearing. Firstly, the RPA asks that this matter be tabled in order to provide time for the association, as well as other local property owners and citizens, to review these ordinances and provide feedback to the Committee before further action is taken.

The RPA has immediate concerns with these ordinances, however, has not had sufficient time to adequately consider them. Municipal laws must be clear and are legally required to provide due process to those that are subject to the ordinances. The RPA has concerns that these ordinances do not provide a clear framework for Milwaukee rental property owners, and that they fail to comply with due process requirements. Furthermore, the RPA has concerns that the proposed Ordinances are not compliant with Wisconsin law.

It is not clear whether the Committee may be considering either of these ordinances, or if 251773 is a substitute meant to replace 252240.

The “Findings” section of File #251773 seems to be identify the purpose of addressing threats to tenants related specifically to a lack of heat, and perhaps similarly egregious health and safety issues causing the

dangerous use of appliances like ovens to provide heat. The connected extreme "special penalties" seem designed to be applied to similarly "special" situations of extreme disregard for health and safety. However, housing ordinances are not all related to the provision of heat and dangerous usage of appliances. To that end, the ordinance at ¶5 includes "EXEMPTIONS", which makes sense considering that the ordinances' excessive potential fines should be limited to those properties for which there has been a demonstrated failure or refusal to comply with serious housing code requirements resulting in dangerous behaviors like resorting to using an oven for heat. However, the only existing exemptions is limited to exterior painting orders. The exemptions section needs to be carefully drafted to include all potential housing code violations which are less egregious, such as those involving issues of aesthetics, or waste collection, so that the extreme "special penalties" are limited to those circumstances involving egregious conduct.

Neither ordinance addresses nor differentiates between those compliance issues caused by the property owner as opposed to those caused by a tenant. Section 704.07(3) places the duty upon the tenant to make certain repairs to the premises if the premises are damaged due to the actions or inactions of the tenant. Holding the landlord responsible for those repairs is contrary to §704.07(3).

There are terms in the proposed ordinance and proposed substitute ordinance which are not defined and are vague and ambiguous, causing both compliance and enforcement challenges, as well as potential fairness of application issues. For example: "substantial efforts" under which the Commissioner "may" terminate a nuisance designation (§200-24-7) creates wholly undefined, unreviewable discretion; and undefined "directly affected" dwelling units (§200-24-6(a)) gives enforcement officials unchecked discretion to multiply penalties across an entire building for a single violation.

In addition, the standard for determining whether the Commissioner "may" designate a property as a nuisance property is related to whether fewer than half of orders received within the preceding 36 months have been "resolved". When is an order considered to be "resolved"? At completion, at inspector verification, at permit closure, when reinspection fees are paid, when a work plan has been submitted? What if the corrective order has been appealed, is that considered to be resolved or unresolved for the purposes of counting violations?

In order to address a nuisance finding, how is a course of action to be determined? What is an "appropriate" remediation plan? A remediation plan is to include a "reasonable date" by which the court of action is to be finished. Without providing a framework for either concept, the standard is vague and ambiguous, and may be applied differently across enforcement actions. If a course of action is rejected, the Commissioner is to provide "suggestions for modification". What is the process for creating and providing "suggestions"? When a property owner must comply with an ordinance, does the Commissioner have authority to require the owner to take specific actions (i.e. "suggestions"), if the owner is otherwise able to bring the property into code compliance?

Finally, the Rental Property Association believes that the proposed ordinance and proposed substitute ordinances are contrary to Section 66.0104, Wis. Stats.

Contrary to § 66.0104(2)(e), the per-unit penalty multiplier requires the City of Milwaukee to make individualized findings about which property units are "in violation or directly affected", and making those findings necessarily requires unit-by-unit inspections that are not authorized under the state's prescribed inspection framework. A single boiler order under current law requires no unit-level inspection; the

proposed ordinance's penalty structure creates a financial incentive for the City to conduct exactly that kind of systematic unit-level inspection that § 66.0104(2)(e) was designed to prevent.

Per unit enforcement is also discretionary, using the word "may". The ordinance provides unchecked discretion to apply it selectively; a due process and equal protection problem.

The tripling of the penalty floor from $150 per day to $450 per day is applied exclusively to landlords and not to all property owners, since it is applied only to the owners/operators of any multi-unit residential properties. This is a discriminatory local regulation placing certain requirements only on landlords contrary to §66.0401, Wis. Stats.

The foregoing concerns largely assume that the substitute ordinance has replaced the original ordinance in File 252240, which has additional concerns, including additional lack of due process. The owner's property interests and liberty interests cannot be subjected to substantially enhanced governmental sanctions without pre-deprivation notice and an opportunity to be heard.

The legislative process is an important one and should not be rushed. Enacting vague and ambiguous ordinances means both compliance and enforcement issues, and enacting ordinances which are contrary to Wisconsin law creates additional confusion and litigation.

We ask that the Committee and Common Counsel provide meaningful time for owners and citizens to raise questions and concerns, and for the enactment of an ordinance carefully drafted to target the root problem in a fair and clear way.

Thank you for your attention to this matter.

Very truly yours,

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cc: City Attorney Evan Goyke via email to egoyke@milwaukee.gov