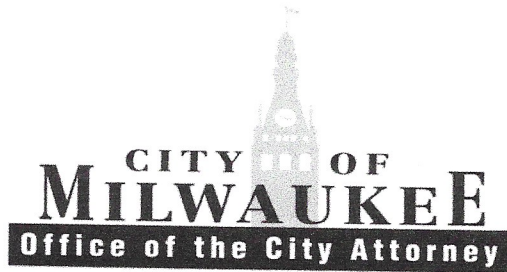


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March 12, 2021

*Via email [Cavalier.Johnson2@milwaukee.gov](mailto:Cavalier.Johnson2@milwaukee.gov)*

Cavalier Johnson, President  
Common Council  
City Hall, Room 205

RE: Council File 201365 and Your March 11 Inquiry

Dear Council President Johnson,

Thank you for your March 11 email inquiry about File 201365 and the Couture matter. Given my March 9 letter to the City Clerk, it is really up to the Council, as a body, as to what it wishes to do. However, given your March 11 inquiry as to what a possible resolution could look like and about City Attorney sign-off on a Council-approved agreement, I respond.

The limitations on individual aldermanic authority expressed in my March 9 letter (to cast votes at Council hearings as opposed to having authority to draft or negotiate municipal contracts) can also be seen to be reflected in the state and local ethics codes, Wis. Stat. 19.59 (1)(b) and MCO 303-5-3, that prohibit a local official from soliciting or accepting, directly or indirectly, anything of value if it could reasonably be expected to influence that official's vote.

Ald. Bauman's motion at ZND to amend Section 13.4 of the proposed development agreement at issue was ultimately adopted by the Council in File 201365. In a March 2 email to the Council, Mayor Barrett indicated that he would not be signing the resolution. Mayor Barrett stated:

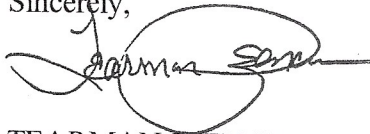
"At committee, an amendment was added tying passage of the resolution to a contribution from Mr. Barrett. That amendment was unnecessary in light of his commitment to contribute to the Anti-Displacement Fund. I also believe the best public policy is to have my Administration work with the Council to develop a path forward funding the Anti-Displacement Fund in a manner that is transparent and consistent so that both perspective developers and the City will not face uncertainty with each and every project."



Cavalier Johnson, President  
Common Council  
March 12, 2021  
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The City Attorney's Office is now researching legal aspects regarding possible paths forward regarding that fund. We have not yet finished our research. Due to our on-going legal research, and to the inclusion in the File 201365-sanctioned development agreement that requires a \$100,000 contribution to that fund, and to our concerns about limitations on individual aldermanic authority and associated ethics codes, the City Attorney's Office – like the Mayor – expresses concern about the Ald. Bauman motion/amendment. The City Attorney's Office, like the Mayor, signaled to the Council via my March 9 letter that our office would not be signing approval of the aldermanic-amended development agreement (MCO 304-21). That remains the case. Consequently, we focus your attention on the second-to-last sentence of my March 9 letter, "If the Council wants, it could take up the Couture Development Agreement again and consider it as a body without the drafting of, or negotiation of, contract section provisions by an individual Alderperson." If the Council were to approve the restated development agreement in its state and form that existed prior to the Ald. Bauman amendment, without the mandated fund contribution, then that would give this office comfort regarding MCO 304-21 and signing off on the provisions of the agreement.

Sincerely,

A handwritten signature in black ink, appearing to read "Tearman Spencer", written over a circular stamp or seal.

TEARMAN SPENCER  
City Attorney

TS/cdr

/273707