

Reply to Common Council File No. 160836
From DOA-Budget and Management Division

October 24, 2016

Ref:

File 160836 contains a substitute ordinance relating to the disposition of city-owned properties.

This ordinance requires the department of city development to replace the non-utility owned portion of any lead drinking water service line serving a 1- to 4-unit, city owned residential property prior to sale. Each replacement shall be performed by a city-certified small business enterprise contractor located in the city whenever possible.

Approximately 68,300 residential properties (54.2% of the total) in the City of Milwaukee have lead service lines (LSLs). While lead is not found in Milwaukee's treated water, lead may be introduced into the water from lead service lines and plumbing fixtures owned by our customers, especially when water stands unused for several hours. To control lead dissolving into the water, Milwaukee Water Works (MWW) treats the water with a compound that forms a protective coating inside pipes.

Guidance from the United States Environmental Protection Agency (EPA) indicates that it is likely that the federal lead and copper safety rule will develop more prescriptive mandates requiring the eventual removal of lead plumbing lines that serve drinking water customers.

The Proposed 2017 Executive Budget includes a financing approach to the systematic replacement of LSLs in conjunction with the MWW's mains replacement program. Replacement of the privately owned portion of lead service lines will be mandatory when a leak is discovered in the service line or when Water Works replaces the utility owned portion of the service line. This requirement will apply to city owned properties as well.

Owners of 1-4 unit residential properties who elect to agree to have a city contractor perform the work are eligible for a city subsidy of 2/3 of the cost of replacing the privately owned portion. Property owners who receive the city subsidy will be responsible for the lesser of \$1,600 or 1/3 of the cost of replacing the privately owned portion of the lead service line. Special Assessment financing payable over 10 years is available for property owners who elect to use a city contractor.

LSLs are not evenly distributed throughout the city. Generally speaking, LSLs serve residential properties constructed prior to 1951. Approximately one-half of the LSLs are found in four aldermanic districts. Two of these four districts include relatively significant numbers of city-owned properties that have been taken through the tax foreclosure process. Approximately 856 properties with lead service lines are owned by the City of Milwaukee or Housing Authority of the City of Milwaukee.

This ordinance proposes the replacement of LSLs in the absence of ground disturbing activity. There may be some benefits associated with this approach. However, the ordinance presents several practical and financial implications that appear to be of greater magnitude than the benefits. The issues include:

- 1) The ordinance states that, for affected properties for which DCD real estate has accepted an offer to purchase, DCD is required to replace the non-utility-owned portion of a lead service line prior to closing the sale. Under this provision, the closing date for affected properties would be contingent upon the speed with which a contractor can be secured and the work can be completed. During 2015, DCD's real estate efforts generated 530 sales of improved properties. This included at least 347 1-4 unit residential properties with LSLs.

When the sale involves a vacant property in which the water meter has been removed or the shut-off valves are damaged or missing, additional work would be required to address these problems before the water service can be replaced. When the sale involves an occupied property, the contractor's work would need to be coordinated with the occupant. Scheduling replacement work in a timely fashion will be especially problematic during the winter months, when the ground is frozen and contractors address a high volume of emergency repairs.

Before the Council imposes this particular provision, it is critical to talk with real estate brokers to obtain feedback on whether injecting this uncertainty into the sales process will have an impact on the city's ability to sell properties in the neighborhoods impacted by both tax foreclosure and the presence of lead laterals.

- 2) The ordinance requires that the sale price of a property "be greater than or equal to the cost to replace the lead service line." The Milwaukee Water Works has compiled cost information for about 80 properties in which the cost of private water service line replacement was added to the property tax bill. The average cost of work at these properties was \$3,613. Of the 900 properties sold by the city since January 1, 2015, 40% had sale prices of less than \$3,600. This group includes many properties sold to non-profit organizations such as ACTS and the faith based community.

Many of the sales made for less than \$3,600 involve sales of a package of properties to developers who will use Low Income Housing Tax Credits or other programs such as the city's Challenge Fund to renovate properties they buy from the city. For such buyers, it is far more efficient to require those developers to replace laterals as a term of sale. The ordinance as written imposes a blanket requirement that the city replace laterals, and contains no provision for this sort of situation.

Fiscal Impact: The Budget and Management Division has developed a Fiscal Impact Statement (FIS) based on actual 2015 property sales and an analysis of the presence of lead service lines in these properties.

Preliminary analysis of the location of lead service lines indicates that at 347 (68%) of the 507 1-4 unit residential properties that the city sold in 2015 contained lead service lines. Had the proposed ordinance requirement been in effect during 2015, the cost for LSL replacement would have been approximately \$1.25 million.

As a practical matter, the Milwaukee Water Works would replace its portion of the lead service line in conjunction with the replacement of the privately owned LSL in order to avoid public health risk arising from ground disturbance and the interactions of lead with copper. Based on 347 replacements,

and a \$6,000 average replacement cost, the Milwaukee Water Works would have incurred a cost of approximately \$2.1 million.

In addition, to the extent this new requirement resulted in a slower pace of sales, increased inventory holding costs would occur. Currently the annual holding cost for an improved property is approximately \$1,900. If 100 properties were held on average for 3 months longer as a result of this provision, increased annual costs of approximately \$47,500 would result.

Finally, some portion of revenue from sales of tax-foreclosed property, under certain conditions, may be deposited into the Delinquent Tax Fund, which lowers the cost to the general fund of uncollected property taxes. It is likely the provisions contained in this proposed ordinance would curtail any such potential deposits.

**RECOMMENDATION: HOLD COMMON COUNCIL FILE NUMBER
160836 TO THE CALL OF THE CHAIR.**



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MPN:dmr

DCD: sr-160836-LSLs and in rem sales.doc