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September 30, 2025

To the Honorable Common Council
of the City of Milwaukee
Room 205 - City Hall

RE: Communications from CLARK AND DAWN WANTOCH
C.I. File No. 1050-2025-907

Dear Council Members:

Clark and Dawn Wantoch (the "Wantochs") purchased parcel #2 (the Parcel) of Certified Survey Map (CSM) No. 5098 in the 1980s. In 1995, the Wantochs divided the Parcel creating lots 5, 6, and 7 with planned frontage upon W. Van Beck Avenue. The Wantochs planned to develop and sell these lots; however, the property remains undeveloped today.

On April 28, 2025, the Wantochs filed a claim with the City requesting: (1) that the City purchase lots 5, 6, and 7 for \$450,000; (2) that the City reimburse them for \$7,539.50 in attorney's fees incurred to date; (3) that the City pay \$500,000 in punitive damages to them; and (4) that the City reimburse them for \$15,000 in property taxes assessed against lots 5, 6, and 7 since 1995.

The City Attorney's Office recommends denial of this claim because this action is not timely, and even if it were the City is not liable to the Wantochs. Assuming *arguendo* that the City was liable, damages are not ascertainable at this pre-suit stage. The fair market value of these undeveloped properties is subject to reasonable debate. Furthermore, Wisconsin courts are unlikely to order specific performance or punitive damages, which require clear and convincing evidence of actual malice, as relief.

Factual Background

The Wantochs make the following allegations in support of their claim: In 1988, the Wantochs recorded CSM No. 5117 relative to certain parcels of land east of South 70th Street in Milwaukee. This plan depended upon land reservations for future City streets extending West Van Beck Avenue and West Norwich Street (i.e., because lots 5, 6, and 7 lacked roadway access unless W. Van Beck Avenue is extended). In 1990, another individual (Czarnecki) purchased a portion of tax key no. 571-994-110 (i.e., Czarnecki's Property). Czarnecki's Property lies to the west of the Parcel and includes the land previously identified



for the extension of W. Van Beck Avenue and W. Norwich Street respectively. In 1995, Czarnecki submitted CSM No. 6083 (the Map) dedicating land for the extension of W. Norwich Street only and the Wantochs divided the Parcel creating lots 5, 6, and 7 of the Wantoch Woods Subdivision.

The Map was reviewed and recommended for approval by the Department of City Development (the Department). The Wantochs allege that the City improperly approved the Map without reservation for the extension of W. Van Beck Avenue in violation of City subdivision regulations; that this omission was intentionally done to benefit Czarnecki and to harm them; and that the City presently has authority to correct this error.

The Wantochs claim that they did not discover that the Map was improperly approved until October 2022, and assert that they brought this issue to the Department's attention by letter dated January 25, 2023.

Legal Analysis

Wisconsin law provides that no claim may be brought or maintained against a government entity unless written notice of the circumstances giving rise to the claim is served upon that entity within 120 days after the happening of the event(s) giving rise to the claim. *See* Wis. Stat. § 893.80(1d). The Common Council approved CSM No. 6083 on March 27, 1995. Timely notice based on this event would have to have been served upon the City on or before July 25, 1995. Assuming *arguendo*, that the Wantochs did not discover the issue with CSM No. 6083 until October 1, 2022, the statutory notice period would have extended until the end of January 2023.

Under either theory, the Wantochs have not alleged or shown that Notice of Claim was served upon the City within the statutory period. Failure to provide timely pre-suit notice is fatal under state law; if the Wantochs cannot bring suit under state law, then the City cannot be liable to them. This alone is reason enough to deny this claim.

Regardless, the City denies that the Map violated 1995 City subdivision regulations. The Map subdivided a portion of Czarnecki's Property establishing two parcels, one out lot, and dedicated land for extending W. Norwich Street. The remainder of Czarnecki's Property, including the portion previously identified for the extension of W. Van Beck Avenue, was unchanged by the Map, and left as an "unplatted parcel." The Wantochs claim that the Department should not have approved the Map in 1995 and assert that the City must dedicate a portion of Czarnecki's unplatted parcel for the extension of W. Van Beck Avenue now.

The Department responds that even if the Map would require reservation for the extension of W. Van Beck Avenue in the present, approval was not inconsistent with the then-applicable laws and regulations in 1995. When the Department reviewed the Map in 1995 the unplatted parcel was outside the exterior boundary of the Map, and thus not within the scope of its review or approval. The Department further notes (correctly) that reservation does not guarantee dedication or development of the right-of-way. The Wantochs claim that the City

must purchase lots 5, 6, and 7 rests upon the presumption that but-for the City's approval of the Map, W. Van Beck Avenue would have been extended providing access to the lots and rendering them capable of development. This presumption is murky at best.

Finally, the Wantochs seek half a million dollars in punitive damages based upon the City's allegedly intentional or willful misconduct in approving the Map and failing to correct the alleged error in January 2023. In the first place, the present record contains no evidence establishing that the City intended to adversely affect the Wantoch's property value when it approved the Map in 1995. In the second, current City subdivision, regulations prohibit the use of a corrective instrument to reconfigure lots or out lots. *See Milwaukee City Ordinances, § 119-16-5.* As such, punitive damages are likely unavailable.

Conclusion

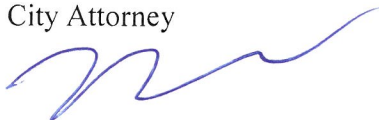
The City Attorney's Office recommends that this claim be denied for the reasons outlined herein. The Wantoch's claim is untimely and therefore not viable under Wisconsin law. Even if it were not, the Department followed standard procedures in 1995 and was not negligent, nor malicious in approving the Map. Neither reservation, nor dedication of land for the extension of W. Van Beck Avenue was required under the circumstances. Furthermore, the claimant's proposed "correction" is prohibited by current regulations.

More generally, the City Attorney's Office recommends settlement of claims when liability is clear and damages are ascertainable. Even if the Wantochs were entitled to some relief, the extent and nature of that relief is unclear. The City should deny this claim at this stage because further investigation in the context of litigation would be necessary even if liability were clear.

Very truly yours,



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Enclosures