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July 27, 2009

Ms. Mary E. Turk
Fiscal Review Analyst, Sr.
Legislative Reference Bureau
Room B-11, City Hall

RE: Applicability of Section 80-10 MCO to Mobile Home Parks

Dear Ms. Turk:

On July 7, 2009, you wrote this office seeking a legal opinion as to whether mobile home parks are "premises" subject to Section 80-10 Milwaukee Code of Ordinances (Chronic Nuisance Premises). You also asked whether s. 80-10 MCO should be amended to specifically apply to mobile home parks.

As your request noted, s. 80-10 MCO does not define the term "premises." Section 200-8-70 MCO defines premises as: "one or more lots or portions of lots, including any structures, which are contiguous and under common ownership or control." State statutory provisions defining "premises" are mostly inapplicable (e.g., alcohol licensed premises in Wis. Stat. § 125.02(14m); child care facilities in Wis. Stat. § 254.11 (10m); and, bingo halls in Wis. Stat. § 563.03 (11)) although Wis. Stat. § 704.01(3) defines premises in the landlord-tenant context as property covered by the lease. Black's Law Dictionary, 7th Edition, simply defines premises as a building along with its grounds.

Mobile home parks are defined in Wisconsin Administrative Code Comm 95.03 (6) as: "...any plot or plots of ground owned by a person, state government or local government upon which 3 or more mobile homes are occupied for dwelling or sleeping purposes are located, regardless of ownership and whether or not a charge is made for the accommodation..." Section 64-01 MCO does not define the term "mobile home parks," and simply adopts certain provisions of Wis. Adm. Code Chapter 65, the former state code related to mobile home parks. Please note that that Wis. Adm. Code chapter Adm 65 was renumbered to Wis. Adm. Code

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chapter Comm 95 in 2001; our municipal ordinance should be revised to reflect that change.

Based upon our review of state statutes, administrative code, and municipal code, it is the opinion of this office that the term "premises," as used in s. 80-10 MCO, would incorporate a mobile home park provided that the park is of the same tax key number and is made up of contiguous lots under common ownership, consistent with the definition of premises in s. 200-8-70 MCO. While not required by this opinion, an amendment to s. 80-10 MCO defining "premises" and/or specifically applying the code to mobile home parks, could provide clarity to those subject to the code and those charged with its enforcement.

In addition to the above analysis, our review of state statutes and administrative code does not reveal a prohibition against the City's use of the Chronic Nuisance Premises code relative to mobile home parks. Wisconsin Stat. § 66.0435(3)(f) states that nothing in that particular subsection prohibits the regulation by local ordinance of a mobile home park. Wisconsin Statute § 66.0435(10) further states: "The powers conferred on licensing authorities by this section are in addition to all other grants of authority and are limited only by the express language of this section."

In fact, several statutory and administrative code provisions indicate that the use of s. 80-10 MCO to notify mobile home park operators of nuisance activity would be appropriate in certain circumstances. For instance, the tenancy of a resident or mobile home occupant in a mobile home park may be terminated or non-renewed by the park operator for disorderly conduct that results in the disruption to the rights of others to the peaceful enjoyment in the use of the premises (Wis. Stat. § 710.15(5m)(b)); the violation of park rules that endangers the health or safety of others or disrupts the right to the peaceful enjoyment and use of the premises by others after written notice to cease the violation has been delivered to the resident or a mobile home occupant (Wis. Stat. § 710.15(5m)(e)); and/or a violation of federal, state or local laws, rules or ordinances related to mobile homes after written notice to cease the violation has been delivered to the resident or mobile home occupant (Wis. Stat. § 710.15(5m)(em)). In addition, Wisconsin Administrative Code requires both management and occupants of mobile home parks to maintain the park and/or sites in a clean, orderly and sanitary manner. Wis. Adm. Code Comm 95.15 (3) & Comm 95.16 (2).

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In conclusion, it is the opinion of this office that mobile home parks may be considered premises subject to s. 80-10 MCO. If you have any questions or concerns, please feel free to contact Assistant City Attorney Adam B. Stephens.

Very truly yours,



GRANT F. HANGLEY
City Attorney



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Mobile Home Study Task Force

1093-2009-1882:147917