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June 4, 2014

Mr. Tony Zielinski  
Alderman 14<sup>th</sup> District  
Chair, Licenses Committee  
Milwaukee Common Council

Re: City Attorney Opinion regarding Pawnbroker licensing standards

Dear Alderman Zielinski:

On April 17, 2014, you requested a City Attorney opinion regarding the scope of Common Council's discretion in considering the Pawnbroker license application of Glenn Lakritz for Lakritz Neighborhood Pawn and Resale Store, 5425-5436 North Lovers Lane Road, Milwaukee, Wisconsin. We are pleased to respond.

**I. Licensure of Pawnbrokers**

Pawnbrokers are regulated by Milwaukee Code of Ordinances (MCO) § 92-1 and Wis. Stat. § 134.71. The ordinance defines pawnbrokers as "a person, firm or corporation engaged in the business of lending money on personal property or goods which are pledged as security for the loan on the condition that if the loan is not repaid within a specified period of time the goods used as security may be sold to compensate the non-payment." MCO § 92-1-1. The statutory definition states: "Pawn broker means any person who engages in the business of lending money on the deposit or pledge of any article or jewelry, or purchasing any article or jewelry with an express or implied agreement or understanding to sell it back at a subsequent time at a stipulated price." Wis. Stat. § 134.71(1)(e). Both Milwaukee Code of Ordinances and state statutes require a license to engage in the pawnbroker business and provide for an application and investigation process. See, MCO § 92-1-3 & 4; Wis. Stat. § 134.71(5) & (6).

Pertinent to your inquiry and request for a legal opinion in this matter, the Common Council must consider certain requirements when exercising its discretion in determining whether to grant or deny a Pawnbroker license application. Milwaukee Code of Ordinances § 92-1-5, Issuance; Terms, states:

- (a) The common council *may* authorize or deny the license.

- (b) No license shall be granted to any person who is not of good moral character and who has not resided in the state of Wisconsin continuously for a period of at least one year prior to the date of filing an application, nor shall any such license be granted or issued to any person who has habitually been a petty law offender or has been convicted of an offense against the laws of the United States or any laws of this state punishable by imprisonment in the state prison or other penal institution as felonies unless the person so convicted has been duly pardoned, subject to s. 111.335, Wis. Stats.
- (c) See s. 81-88 for the required license fee.
- (d) Every person so licensed shall prior to the time of receiving such license enter with 2 sufficient sureties into a joint and several bond to the city of Milwaukee in the penal sum of \$500 for the due observation of all ordinances of the common council as may be passed or enforced respecting pawnbrokers.
- (e) No pawnbroker license issued may be transferred.

Our interpretation of the provision found in MCO §92-1-5, “[t]he Common Council may authorize or deny the license” simply means that the Common Council retains discretion whether or not to issue the license. In other words, there is not a presumption that a new license application will be granted by the Common Council. However, the state’s enabling statute, Wis. Stat. § 134.71(7)(a)-(c), states:

- (a) The governing body of the county or municipality *shall* grant the license if all of the following apply:
  - 1. The applicant, including an individual, a partner, a member of a limited liability company or an officer, director or agent of any corporate applicant, has not been convicted within the preceding 10 years of a felony or within the preceding 10 years of a misdemeanor, statutory violation punishable by forfeiture or county or municipal ordinance violation in which the circumstances of the felony, misdemeanor or other offense substantially relate to the circumstances of being a pawnbroker, secondhand jewelry dealer, secondhand article dealer or secondhand article dealer mall or flea market owner.
  - 2. With respect to an applicant for a pawnbroker's license, the applicant provides to the governing body a bond of \$500, with not less than 2 sureties, for the observation of all municipal ordinances relating to pawnbrokers.
- (b) No license issued under this subsection may be transferred.
- (c) 1. Each license for a pawnbroker, secondhand article dealer or secondhand jewelry dealer is valid from January 1 until the following December 31.

2. Each license for a secondhand article dealer mall or flea market is valid for 2 years, from May 1 of an odd-numbered year until April 30 of the next odd-numbered year.

*Emphasis added.*

There are no other codified standards or criteria listed in either Wis. Stat. § 134.71(7) or MCO §92-1-5 relative to the appropriateness or suitability of the proposed pawnbroker premises. In fact, this office previously opined that "...the pawnbroker's license appears to be more of a personal license, and not necessarily tied to a premises." See, City Attorney Opinion dated June 17, 1993 (attached).

On its face, our ordinance appears to be inconsistent with the state's enabling legislation; MCO §92-1-5, states that the common council "may authorize or deny" a pawnbroker license, whereas Wis. Stat. § 134.71(7) states that a municipality "shall grant" a pawnbroker license if the subsequent criteria is met. The word "shall" is typically used to mandate an action, while the word "may," in its ordinary and common use, is permissive and used to confer a privilege. See, *Equitable Life Assurance Soc. v. Host*, 124 Wis. 657, 669-670 (1905); See also, *Wauwatosa v. County of Milwaukee*, 22 Wis. 184, 191-2, 125 N.W.2d 386 (1963). In light of the commonly argued distinction between may and shall, which in turn determines whether an act or duty is discretionary or mandatory, courts will look to the statute's objectives and history, the consequences of an alternate interpretation, and whether the statute imposes a penalty for failure to act. *Heritage Farms, Inc. v. Markel Ins. Co.*, 2012 WI 26, ¶ 36, 339 Wis. 2d 125, 810 N.W.2d 465.

This office has previously opined that the city may not declare a moratorium on the granting of new secondhand jewelry licenses due to a licensing provision that states that a license "shall be granted" if the subsequently listed criteria is met. See, City Attorney Opinion dated May 21, 2010 (attached). The issuance criteria set forth in Wis. Stat. § 134.71(7) apply equally to both secondhand jewelry licenses and pawnbrokers licenses.

However, based upon the discussion found below, that the City of Milwaukee is permitted by the state to regulate pawnbrokers more stringently than state law, we believe the use of "shall grant" in Wis. Stat. § 134.71(7) permits the city to exercise discretion and does not mandate the issuance of a pawnbroker license subject only to the statute's licensing considerations.

## **II. Scope of Common Council discretion to consider pawnbroker license applications.**

The City of Milwaukee may enact an ordinance governing pawnbroker licenses as long as the ordinance is "at least as stringent" as the state enabling statute. See, Wis. Stat. § 134.71(14). Thus, city ordinance may permit the common council to consider additional requirements beyond that found in Wis. Stat. § 134.71(7)(a)-(c). Pursuant to recently

Mr. Tony Zielinski

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enacted MCO § 85-2.7-4., the Common Council may consider neighborhood objections as to the potential negative secondary impacts a particular new pawnbroker license may have on the surrounding neighborhood

Notwithstanding the use of the word “shall,” the state enabling statute cannot be reasonably construed to mean that the City of Milwaukee is mandated to issue every license to a qualified applicant. First, Wis. Stat. § 134.71(14) permits more stringent municipal regulations, and the City of Milwaukee has chosen to do so through MCO § 85-2.7-4. Second, it seems reasonable that the city could deny an otherwise perfect applicant with a clean record a pawnbroker license if such person was to apply for a location where such a business would be prohibited pursuant to the zoning code, or at a building that was not habitable under the building code.

In your request for a legal opinion, you cite the historic practice of the City Clerk License Division to schedule committee hearings to allow the licensing committee to hear objections from neighbors and to consider those concerns regarding an application for a new pawnbroker license at a particular proposed location. As mentioned above, there was no statutory or code support of this practice prior to the adoption of MCO §85-2.7-4. However, a City Attorney Opinion dated November 16, 1996 appears to have acknowledged this historic practice. In that opinion, this office opined that language to a proposal to amend MCO §92-3-4 relative to considerations for granting pawnbroker licenses be changed. This opinion specifically advised:

This language [i.e., “shall grant”] may be problematic, in that there may not be a particular reason from the background or criminal record of the applicant to not grant the license, but there could be objections from adjoining property owners as to whether or not such a license should be granted for a particular location. The problem is that the common council would have no discretionary authority to deny a license based upon concerns of the neighborhood if the ‘shall’ language is used.

*See*, CAO opinion dated November 16, 1995, page 2. (attached). A review of both Wis. Stat. § 134.71 and MCO § 92-1 in effect at the time of this opinion reveals language and issuance considerations largely identical to that found in subsequent and current law.

There is some legal support for arguing that the council may rely upon uncodified licensing considerations as long as those considerations are similar in nature to codified criteria. In an unpublished decision, the Wisconsin Court of Appeals has previously held that a zoning board can reasonably conclude that a payday loan business is similar enough to a check cashing operation and therefore is not compatible with the surrounding neighborhood even though a payday loan business was not a specifically prohibited use. *See, EZMoney Wis., Inc. v. City of Wauwatosa Board of Zoning Appeals*, 2009 WI App

141, ¶ 23, 321 Wis. 2d 477, 774 N.W.2d 476 (unpublished). Because Wisconsin enabling statutes authorize zoning ordinances to reflect minimum requirements to achieve stated purposes, the court of appeals found that there must necessarily be room for a board of zoning appeals to implement the intent of the ordinance by imposing reasonable additional requirements to achieve those purposes. *Id.* at ¶ 20.

In another unpublished decision in *C&C Pawnbrokers, LLC v. City of Eau Claire*, 2005 WI App 59, 280 Wis. 2d 559, 694 N.W.2d 510, the court of appeals held constitutional a city ordinance requiring pawnbrokers to join a computerized system that allowed police to track information about customers and merchandise purchased by pawn broking businesses. Ostensibly, even though the reporting requirement went beyond the stated criteria set forth in the state's enabling statutes, the requirement was a permissible consideration to determine the propriety of licensing a Eau Claire pawnbroker.

### **III. Uncodified licensing considerations**

When the common council exercises its discretion without use of standards known to council members and license applicants, any subsequent decision is subject to a claim that the decision was arbitrary and violative of due process. A preeminent treatise on municipal law states:

Simply stated, an ordinance that fails to set forth a norm or standard by which the City legislative body should govern itself in the granting or rejection of applications for licenses is void. Also, an ordinance is invalid where it vests unrestricted discretion and a Mayor and Council in granting or not granting a license or permit. If an ordinance prescribes no rule for the conduct of a particular business with which it undertakes to deal, applicable alike to all who may bring themselves within its terms, it will be held to be unreasonable.

*McQuillin Municipal Corporations*, Vol. 9, §26:80 (3rd ed.)(citations omitted).

In *Juneau v. Badger Co-operative Oil Company*, 227 Wis. 620, 625, 279 N.W. 666 (1938), the Wisconsin Supreme Court cited the McQuillen treatise with approval when it held “[W]hen the legislative body of the city assumes to grant a license itself, the ordinance provision for the granting of it must prescribe the conditions that must be met by the licensee, appropriate to the particular business with which it deals, applicable alike to all applicants.

Thus, the city's historic practice to expansively interpret the discretion permitted to be exercised by the Common Council in granting a new pawnbroker's license, to allow for any consideration or objection that could be raised by neighbors or any other interested party, could have been held by a reviewing court to be impermissibly vague, arbitrary and standard-less. “Arbitrary or absolute discretion to grant or deny a license, vested in an

official or board, is in violation of the constitutional guarantees of due process and equal protection of the law, and also violates the requisite of reasonableness pertaining to all ordinances. *See, McQuillin Muni. Corp.*, §. 26:82. However, recent code changes have ameliorated that previous problem.

**IV. Recent ordinance requirement requiring consideration of potential negative secondary effects of new license applications on surrounding neighborhood.**

At the very Licenses Committee hearing and subsequent Common Council meeting in which the above-referenced Pawnbroker license application was heard in April 2014, MCO Chapter 85 was in the process of being amended to allow for consideration of potential negative secondary affects businesses may have on the surrounding neighborhood. These type of considerations have been required since approximately 2008 in MCO §85-4-4 relative to the renewal of a variety of licensed premises.

Milwaukee Code of Ordinances §85-2.7-4 was created by Common Council file No. 131502 and made effective on April 22, 2014. This code provision requires the Licenses Committee to make its recommendation whether or not to grant each new license application based upon the standards set forth in each substantive licensing provision *and* the additional criteria set forth in that ordinance, notably, the potential negative secondary effects on the surrounding neighborhood. The recent code provision states:

MCO §85-2.7-4. RECOMMENDATION. The recommendation of the committee regarding the applicant shall be based on evidence presented at the hearing. Probative evidence concerning whether or not the license should be granted may be presented on the following subjects:

- a. Whether or not the applicant meets the municipal requirements.
- b. The appropriateness of the location and premises where the licensed premises is to be located and whether use of the premises for the purposes or activities permitted by the license would tend to facilitate a public or private nuisance or create undesirable neighborhood problems such as disorderly patrons, unreasonably loud noise, litter, and excessive traffic and parking congestion. Probative evidence relating to these matters may be taken from the plan of operation submitted with the license application, if any, but shall not include the content of any music.
- c. The fitness of the location of the premises to be maintained as the principal place of business, including but not limited to whether there is an overconcentration of businesses of the type for which the license is sought, whether the proposal is consistent with any pertinent neighborhood business or development plans, or proximity to areas where children are typically present.

- d. The applicant's record in operating similarly licensed premises.
- e. Whether or not the applicant has been charged with or convicted of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the activity to be permitted by the license being applied for.
- f. Any other factors which reasonably relate to the public health, safety and welfare.

Based upon this recent code provision, neighborhood testimony regarding potential negative secondary effects the Pawnbroker license would have on the surrounding neighborhood would be relevant to Licenses Committee consideration. However, given that the Lakritz Neighborhood Pawn license application was filed prior to the passage of MCO §85-2.7-4, a question remains whether the committee and common council may rely upon its considerations. In other words, does the licensing law in existence at the time of application strictly apply or do code changes prior to final Common Council approval of a license application apply?

**V. Does the recent code change of MCO §85-2.7-4 apply to the Pawnbroker license application of Lakritz Neighborhood Pawn and Resale Store?**

It is a well-established rule in Wisconsin that legislation is presumed to be prospective in application unless: (1) The statute reveals by express language the legislature's intent to apply the provisions retroactively; or (2) The language reveals such intent by necessary implication. *State v. Chrysler Outboard Corp.*, 219 Wis. 2d 130, 162, 580 N.W.2d 203 (1998) (citations omitted). "However, a statute does not operate retrospectively merely because it is applied in a case arising from conduct antedating the statute's enactment or upsets expectations based upon prior law. . . [s]tated differently, '[a] retroactive law takes away or impairs vested rights acquired under existing laws, or creates a new obligation, imposes a new duty, or attaches a new disability, in respect to transactions or consideration already passed.'" *Id.* at 172, citing, *Landgraf v. USI Film Prods.*, 511 U.S. 244, 269-70 (1994) (quotes and other citations omitted). By this analysis, then, it may be reasonable to suggest that the Lakritz pawn proposal would not even be subject to the retroactivity analysis because license applicants in highly regulated fields generally do not have a property interest in obtaining a new license. See, *McQuillin Municipal Corporations*, Vol. 9, §26:93 (3rd ed.) (citations omitted).

In *Landgraf v. USI Film Prods.*, 511 U.S. 244, 265-266, 114 S.Ct. 1483, 128 L.Ed.2d 229 (1994), the United States Supreme Court noted the strong legal presumption against retroactive legislation by reiterating that individuals should have an opportunity to know what the law is, to conform their conduct accordingly, and that settled expectations should not be lightly disrupted. *Id.* The Court noted that in any free and dynamic society, creativity in both commercial and artistic endeavors is fostered by a rule of law that gives people confidence about the legal consequences of their actions. *Id.* The Court recognized the tension between this doctrine and another well-established legal doctrine

that requires courts to apply the law as it exists when the court renders its decision. *Id.* at 264. In *Landgraf*, however, the Supreme Court held that reviewing courts should presume that a new law has prospective affect unless the law itself allows for retroactive application, and that courts should require a clear showing of intent by a legislature showing that it had affirmatively considered the potential unfairness of retroactive application and determined that it was an acceptable price to pay for the countervailing benefits. *Id.* at 272-73.

Relative to the Lakritz pawnbroker license application, we note that the applicant does not possess a vested property right in a new license (as would be the case for a renewal of an issued license). Second, the Common Council will have a direct voice on the retroactivity issue when it votes on the proposal sometime in the future. It seems clear from the historic practice of the City Clerk License Division and the November 16, 1996 City Attorney Opinion cited above that the council would probably view MCO §85-2.7-4 as having retroactive affect to be considered in light of the Pawnbroker license application of the Lakritz Neighborhood Pawn and Resale Store. Thus, neighborhood testimony regarding the potential negative secondary affects the Lakritz pawn shop would have on the surrounding neighborhood would be relevant to Licenses Committee and Common Council consideration.

**VI. The Common Council record of the Pawnbroker license application of Lakritz Neighborhood Pawn and Resale Store**

A review of the Licenses Committee hearing on April 8, 2014, seems to suggest that the testimony against the granting of the Lakritz pawnbroker's license had more to do with the use of the property as a pawnbroker's business rather than any specific evidentiary concern that this particular location, or this particular applicant, would threaten public health, safety and welfare. In other words, it may be that neighbors used the licenses committee hearing relitigate the zoning issue that had already been previously decided in BOZA Case No. 32957.

This may be an inappropriate use of the licensing process. Simply stated, zoning addresses appropriate land uses of property at the district and/or neighborhood level with particular review of specific properties only when an exception to the requirements of the Zoning Code (ch. 295 MCO) is sought. On the other hand, licensing considerations are by their very nature, unique and individualized as to the specific location and persons to be licensed. Common licensing considerations include whether the proposed licensure may create or maintain negative secondary neighborhood effects or inappropriately license an untrustworthy person to conduct business.

In this case, neighborhood testimony against the license application had less to do with the specifically proposed location and more to do with the nature of pawnbroker operations generally. There did not seem to be any evidence that the proposed location had previous public health, safety or welfare problems that the Lakritz Neighborhood



Mr. Tony Zielinski

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Pawn and Resale Store would exacerbate. Nor was there specific evidence that the Lakritz proposal would be a public or private nuisance or unreasonably contribute to excessive traffic, litter, noise or parking problems at the proposed location. The objections simply listed general concerns about pawnshops contributing to lower real estate values and bringing criminal activity to the area, i.e., concerns that seemingly would apply to any pawnshop anywhere in the City of Milwaukee. We must be mindful that the authority to regulate does not necessarily give the power to suppress. *McQuillin Municipal Corporations*, Vol. 9, §26:95 (3rd ed.)(citation omitted).

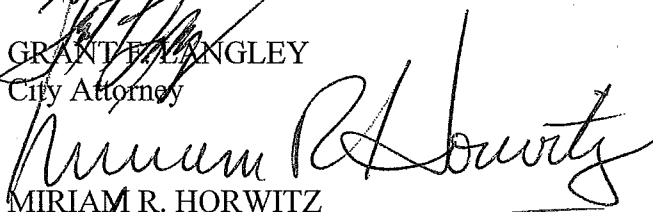
**VII. Conclusion**

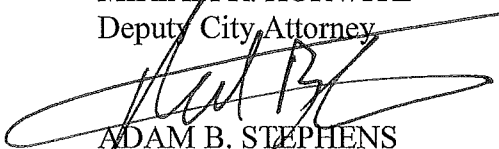
The Licenses Committee and Common Council may consider neighborhood testimony pursuant to recently-enacted MCO §85-2.7-4 to the Lakritz Neighborhood Pawn and Resale Store pawnbroker license application. Whether there was adequate evidence put forth under MCO §85-2.7-4 to deny the application remains within the sound discretion of the Common Council through its Licenses Committee.

Please feel free to contact our office for any additional questions or concerns.

Very truly yours,

  
GRANT E. LANGLEY  
City Attorney

  
MIRIAM R. HORWITZ  
Deputy City Attorney

  
ADAM B. STEPHENS  
Assistant City Attorney

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# CITY OF MILWAUKEE

Form CA-43

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November 16, 1995

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Assistant City Attorneys

To The Honorable Common Council  
City Hall  
200 East Wells Street, Room 205  
Milwaukee, Wisconsin 53202

Re: File No. 951085

Dear Council Members:

The above referenced file has been sent to this office for an opinion as to its legality and enforceability. It is our opinion that File No. 951085 dealing with the licensure of pawnbrokers, secondhand dealers and secondhand jewelry dealers is not legal and enforceable in its present form.

We are concerned with two aspects of this proposal relating to the manner by which the ordinance would operate in actual application. The first, and most serious, of the concerns deals with the proposed § 92-3-3 and the proposed § 93-3-6 of the pawnbroker's license and § 92-5-3 and 92-5-7 dealing with secondhand dealers and § 92-7-3 and 92-7-6 dealing with secondhand jewelry dealers.

In each of those sections, a provision is made for police investigation of the background of the applicant, and where appropriate, a revocation of the license of the applicant if the applicant fails to abide by the ordinances of the City of Milwaukee or the laws of the State of Wisconsin.

The problem is that none of the provisions include a procedure as to how a police objection would be heard or a revocation would be accomplished. In the case of the police investigation, there is no procedure set forth as to how the police department may bring any known objection to the attention of the Common Council, such that a hearing may be had on the police department objection. In

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The Honorable Common Council  
November 16, 1995  
Page 2

the case of a police objection or revocation no system of complaint, notification or opportunity to be heard is provided the license applicant. Further no forum is provided to hear and adjudicate a police objection.

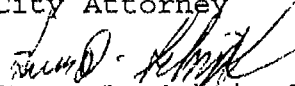
Is it the intention of the Council that these matters would be heard or reviewed by the Utilities and Licenses Committee? Is it the intention of the Council that these matters would be heard or reviewed by the Administrative Review Board? Is it the intention of the Council that these matters would be heard or reviewed by a Writ of Certiorari? We believe that these matters should be addressed in the implementing legislation. Specifically, we believe that where there is a police objection there should be a hearing before some body empowered by the Common Council to make a recommendation to the Common Council as to grant or refusal to grant the license, and we further believe that in those cases where revocation is being sought, a procedure for holding a hearing before an appropriate body be created in the implementing legislation. In all such cases a system of notification to the license applicant must be included.

The other concern that we have with respect to the proposal appears in § 92-3-4, of the pawnbroker's license, § 92-5-4 of the secondhand dealer's license, and § 92-7-4 of the secondhand jewelry dealer's license. In each instance the language of the ordinance states that the Common Council "shall" grant the license if the conditions are met. This language may be problematic, in that there may not be a particular reason from the background or criminal record of the applicant to not grant the license, but there could be objections from adjoining property owners as to whether or not such a license should be granted for a particular location. The problem is that the Common Council would have no discretionary authority to deny a license based upon concerns of the neighborhood if the "shall" language is used.

We feel it incumbent upon us to bring these concerns to the attention of the Common Council at the time you consider these proposals.

Sincerely,

  
GRANT E. LANGLEY  
City Attorney

  
Bruce D. Schimpf  
Assistant City Attorney

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**CITY OF**  
**MILWAUKEE**  
**Office of the City Attorney**



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Assistant City Attorneys

May 21, 2010

Ronald D. Leonhardt  
City Clerk  
City Hall, 205

Re: Moratorium on the issuance of Licenses  
for Precious Metal and Gem Dealer Licenses

Dear Mr. Leonhardt:

You have asked us for an opinion on the ability of the Common Council to create a task force to study any problems associated with "cash for gold" operations and to impose a moratorium on the issuance of the precious metal and gem dealer license under the provisions of Section 92-10 of the Milwaukee Code of Ordinances during that study. The authority to so regulate the second hand transactions in jewelry is granted by Wis. Stat. Sec. 134.71.

Wis. Stat. § 134.71 (7) provides as follows:

(7) LICENSE ISSUANCE. (a) The governing body of the county or municipality shall grant the license if all of the following apply:

1. The applicant, including an individual, a partner, a member of a limited liability company or an officer, director or agent of any corporate applicant, has not been convicted within the preceding 10 years of a felony or within the preceding 10 years of a misdemeanor, statutory violation punishable by forfeiture or county or municipal ordinance violation in which the circumstances of the felony, misdemeanor or other offense substantially relate to the circumstances of being a pawnbroker, secondhand jewelry dealer, secondhand article dealer or secondhand article dealer mall or flea market owner.

2. With respect to an applicant for a pawnbroker's license, applicant provides to the governing body a bond of \$500, with not less than 2 sureties, for the observation of all municipal ordinances relating to pawnbrokers.

(b) No license issued under this subsection may be transferred.

OFFICE OF THE CITY ATTORNEY

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Ronald D. Leonhardt  
May 21, 2010  
Page 2

- (c) 1. Each license for a pawnbroker, secondhand article or secondhand jewelry dealer is valid from January 1 until the following December 31.
2. Each license for a secondhand article dealer mall or flea market is valid for 2 years, from May 1 of an odd-numbered year until April 30 of the next odd-numbered year.

Because the license "shall be granted" upon the applicant meeting the foregoing criteria we do not believe there is the authority to create a moratorium on the granting of such a license.

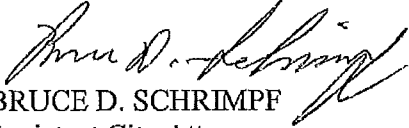
However, we believe that establishing a task force to study any problems associated with the operation of such stores is well within the authority of the Common Council to legislate for the health, safety and welfare of the citizens.

We will be happy to assist the Council in any way it deems appropriate in such a task force.

Very truly yours,



GRANT H. LANGLEY  
City Attorney



BRUCE D. SCHRIMPF  
Assistant City Attorney

MRS:wt:158188  
1055-2010-1399

# CITY OF MILWAUKEE

Form CA-43

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Assistant City Attorneys

June 17, 1993

Ald. Michael J. Murphy  
16th Aldermanic District  
City Clerk's Office  
Room 205, City Hall

Dear Mr. Murphy:

By a letter directed to us dated May 28, 1993, you ask whether a pawnbroker's license, under the current ordinance, is issued for a specific location. If not, you ask if it is possible to change the ordinance and provide language, so that it is clear the pawnbroker's license is issued for a specific location.

The pawnbroker's license is referenced in § 81-88 of the Milwaukee Code of Ordinances. The ordinance states in its entirety:

"81-88. **Pawnbroker's License.** 1. Each pawnbroker's license shall be issued for a two-year period, expiring on May 1 in odd-numbered years.

2. The fee for each license shall be \$440. (See s. 92-1.)"

Section 92-1 of the Milwaukee Code of Ordinances, defines a pawnbroker, indicates that a license is required, and sets forth the application process. Section 92-1.3. of the Milwaukee Code of Ordinances states:

"APPLICATION. Application for pawnbroker's shall be made through the City Clerk upon forms provided by the City Clerk for such purpose. Each application for a license shall state:

a. Name and Address of Applicant;

Ald. Michael Murphy


- 3 -

June 8, 1993

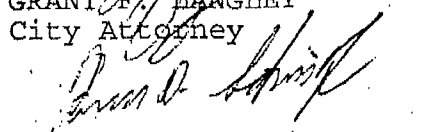
Thus, it is necessary to amend § 92-1 of the Milwaukee Code of Ordinances in subsections 2 and 3 to make certain that the license in question goes to an individual at a particular location.

If the Council concludes that a pawnbroking establishment should be licensed as well as the pawnbroker, there will need to be changes made to the Milwaukee Code of Ordinances. Matters such as multiple locations, the closing of multiple locations within a license period, transfer of such locations, sale of such locations, etc. will have to be addressed by the Council. While you have asked this office to draft language to assist you, it is necessary to have resolution of those issues in order to draft appropriate language.

Sincerely,



GRANT F. LANGLEY  
City Attorney



BRUCE D. SCHRIMPF  
Assistant City Attorney

GFL:BDS:kt/MURPHY.LO

c: Ronald Leonhardt, City Clerk