

# CITY OF MILWAUKEE

Form CA-43

**GRANT F. LANGLEY**  
City Attorney

**RUDOLPH M. KONRAD**  
Deputy City Attorney

**THOMAS E. HAYES**  
**PATRICK B. McDONNELL**  
**LINDA ULISS BURKE**  
Special Deputy City Attorneys



**OFFICE OF CITY ATTORNEY**  
800 CITY HALL  
200 EAST WELLS STREET  
MILWAUKEE, WISCONSIN 53202-3551  
TELEPHONE (414) 286-2601  
TDD 286-2025  
FAX (414) 286-8550

**BEVERLY A. TEMPLE**  
**THOMAS O. GARTNER**  
**BRUCE D. SCHRIMPF**  
**ROXANE L. CRAWFORD**  
**SUSAN D. BICKERT**  
**HAZEL MOSLEY**  
**HARRY A. STEIN**  
**STUART S. MUKAMAL**  
**THOMAS J. BEAMISH**  
**MAURITA F. HOUREN**  
**JOHN J. HEINEN**  
**MICHAEL G. TOBIN**  
**DAVID J. STANOSZ**  
**SUSAN E. LAPPEN**  
**DAVID R. HALBROOKS**  
**JAN A. SMOKOWICZ**  
**PATRICIA A. FRICKER**  
**HEIDI WICK SPOERL**  
**KURT A. BEHLING**  
**GREGG C. HAGOPIAN**  
**ELLEN H. TANGEN**  
**MELANIE R. SWANK**  
**JAY A. UNORA**  
**DONALD L. SCHRIEFER**  
**EDWARD M. EHRlich**  
**LEONARD A. TOKUS**  
**MIRIAM R. HORWITZ**  
**MARYNELL REGAN**  
**G. O'SULLIVAN-CROWLEY**

Assistant City Attorneys

November 18, 2002

Zoning, Neighborhoods & Development Committee  
Room 205 – City Hall

Re: Common Council Files Nos. 020643, 020855, and 020856 – Revised Protest Petition (Rezoning of a General Planned Development known as Le Parc House, on the south side of West Donna Drive and west of North 107 Street

Dear Committee Members:

The three above-referenced files contain a protest petition objecting to the rezoning of the above-referenced General Planned Development project to permit the construction of one or more three-story structures as part of this project. All three files are identical in content, and contain the identical petition. Please note that this petition is a revision of an earlier petition with respect to which this office issued an opinion dated November 5, 2002, a copy of which is attached for reference.

In our earlier opinion, we found the original protest petition to be invalid for two reasons: (1) its reference to signatories attesting that they lived “within 300 feet adjacent to the Finlay Development located 107<sup>th</sup> Street and West Donna Drive,” which we found did not conform to the distance requirement set forth by the applicable statute and ordinance (§ 62.23(7)(d)(2m).a., *Wis. Stats.*, and § 295-307-5, *Milwaukee Code of Ordinances*); and (2) the fact that the original petition was not “duly signed and acknowledged” in proper form, as required by this statute and this ordinance.

Subsequently, these protest petitions were apparently re-circulated, and we note that the two shortcomings that caused this office to find the original protest petition to be

Zoning, Neighborhoods & Development Committee

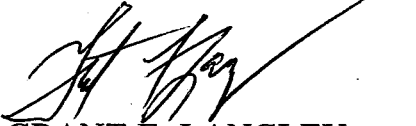
November 18, 2002

Page 2

invalid have been remedied. Specifically, the revised form of protest petition states that the signatories "attest that we live within 100 feet adjacent to the Finlay development located 107<sup>th</sup> Street and West Donna Drive." Furthermore, the form of acknowledgement indicates that Mr. Bill Lieven, the circulator of the revised protest petition, appeared before the notary on November 12, 2002 and signed the protest petition on that date in the notary's presence. These revisions, in our opinion, constitute a sufficient remedy for the shortcomings noted in our earlier opinion of November 5, 2002

Accordingly, it is our opinion that the revised protest petition is valid, providing that it satisfies the "20%" requirements set forth in § 62.23(7)(d)(2m).a., *Wis. Stats.*, and § 295-307-5, *Milwaukee Code of Ordinances*. If you have any further questions concerning this matter, please contact this office for guidance.

Very truly yours,



GRANT F. LANGLEY

City Attorney



STUART S. MUKAMAL

Assistant City Attorney

SSM:lmb

enclosure

1121-2002-3560:60366