

CITY OF MILWAUKEE

Form CA-43

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Assistant City Attorneys

April 14, 2003

Honorable Common Council
City Hall, Room 205
200 East Wells Street
Milwaukee, WI 53202

Re: Legality and Enforceability of File No. 011725, Substitute 7, Referring to Second Hand Motor Vehicle Dealers and Auto Wreckers Licenses

Dear Council Members:

The above referenced file has been sent to the City Attorney's Office for a review as to legality and enforceability. It is our opinion that as presently drafted Substitute 7 is not legal and enforceable.

Specifically, the proposed draft of §93-1 MCO definitions includes two different definitions for the term "motor vehicle". The first is included in the proposed §93-1(1) MCO, which makes reference to motor vehicle as defined in s. 340.01(35), Stats. The second and conflicting definition of motor vehicle is contained within §93-1(4) MCO.

Our second cause for concern is the definition of "secondhand" as that term is defined in §93-1(6) MCO, which in our opinion as drafted is overly broad. We refer you, as an example, to the definition of "secondhand" in sec. 92-2-1-e, MCO.

Our third and final concern relates to the provisions of §93-11 MCO, which provides for a disqualification for license renewal thereby adversely affecting the owner of the

Honorable Common Council

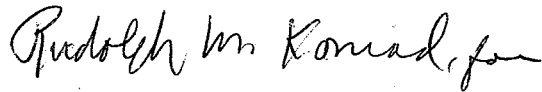
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premises, but the procedures for non-renewal do not expressly allow the owner of the property to participate in any hearing before the committee. It is our opinion that the manner in which a hearing is conducted should expressly allow both the applicant and the owner of the premises to participate.

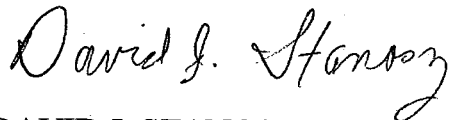
With these three modifications, it is our opinion that File No. 011725 would be legal and enforceable.

Very truly yours,



GRANT. F. LANGLEY

City Attorney



DAVID J. STANOSZ

Assistant City Attorney

c: Mr. Ronald Leonhardt
Mr. Barry Zalben

DJS/ms:66512