

# Mallery & Zimmerman s.c.

*A Limited Liability Service Corporation*

731 North Jackson Street • Suite 900 • Milwaukee, Wisconsin 53202-4697  
Telephone: 414-271-2424 • www.mzmilw.com • Facsimile: 414-271-8678

Thomas P. DeMuth  
Direct Telephone: 414-727-6277  
E-mail: tdemuth@mzmilw.com

December 3, 2010

All Delivered by Messenger

Mr. Ronald D. Leonhardt  
City of Milwaukee, City Clerk  
City Hall, Room 205  
200 East Wells Street  
Milwaukee, Wisconsin 53202

Mr. Jim Owczarski  
City of Milwaukee, Deputy City Clerk  
City Hall, Room 205  
200 East Wells Street  
Milwaukee, Wisconsin 53202

Alderman Robert J. Bauman  
City Hall, Room 205  
200 East Wells Street  
Milwaukee, Wisconsin 53202

Mr. Paul Jakabovic  
Milwaukee Historic Preservation Commission  
City Clerk's Office  
City Hall, Room B-4  
200 East Wells Street  
Milwaukee, Wisconsin 53202

Gentlemen:

RE: Open Records Request, Request for  
Abstention of Alderman Bauman and  
Request for Due Process and Prompt  
Decision

We represent Jackson Street Management LLC ("Jackson Street"). For the reasons set forth below, this letter serves as actual notice of a claim on behalf of my clients pursuant to

Mr. Ronald D. Leonhardt  
Mr. Jim Owczarski  
Alderman Robert J. Bauman  
Mr. Paul Jakabovic  
December 3, 2010  
Page 2

Section 893.80 of the Wisconsin Statutes. Jackson Street has proposed building an approximately \$50,000,000 privately financed full service Marriott hotel near the corner of Wisconsin Avenue and Milwaukee Street in downtown Milwaukee. Jackson Street has a pending Application ("Application") for a Certificate of Appropriateness in front of the Historic Preservation Commission ("HPC"). With respect to the Application, we hereby request the following actions.

I. Open Records Request.

Pursuant to Wisconsin Open Records Law, we request the right to inspect and, if necessary, copy the following documents. Any and all correspondence, emails, records and plans pertaining to the real estate located at 625-631 North Milwaukee Street and/or 319-327 East Wisconsin Avenue, Milwaukee, Wisconsin (collectively, the properties are referred to as the "Properties") from January 1, 2010 through the date of this request, including but not limited to:

1. All correspondence and emails from and to Alderman Robert Bauman related to the Properties.
2. All correspondence and emails between any and all members of HPC related to the Properties.
3. All correspondence and emails between and among Alderman Kovac, David Uihlein, Michael "Mick" Hatch and/or members of HPC or its staff. Included in this request is a copy of any plans, renderings or similar items with respect to an alternative project at the Properties.
4. All of Alderman Bauman's notes and records related to the Properties.
5. Resolutions Numbered 100235, 101028 and 101029 which have passed or are pending before the Common Council or any committee.

We understand that, by law, we are entitled to access these records as soon as practicable. Please contact me to schedule a time when we can inspect the records. A public hearing is scheduled in front of HPC on December 13, 2010 regarding the Application, so time is of the essence with respect to our review of the records we have requested. If you are not the records custodian for this information, please forward this request to the appropriate person and let us know to whom you have forwarded this request.

Mr. Ronald D. Leonhardt  
Mr. Jim Owczarski  
Alderman Robert J. Bauman  
Mr. Paul Jakabovic  
December 3, 2010  
Page 3

II. Request for Abstention of Alderman Bauman.

Pursuant to Article III, Section 4 of the Bylaws of the Milwaukee Historic Preservation Commission (“Bylaws”), a member of HPC shall abstain from voting on an issue if such voting could be reasonably construed as involving a conflict of interest. In addition, all commission members have a duty of impartiality in accordance with all applicable laws. We firmly believe that Alderman Bauman has a conflict of interest and has lost his ability to act in an impartial manner with respect to the Application. Below are just a few of Alderman Bauman’s actions since the proposal of this project:

1. On or about November 11, 2010, Alderman Bauman called Marriott’s corporate headquarters to discuss the project with a representative of Marriott. Alderman Bauman did this without the consent or knowledge of our client and Marriott. Jackson Street has a contract with Marriott and Alderman Bauman’s actions, either on his own or as a representative of the City, may have interfered with the contract between Jackson Street and Marriott.

2. Representatives of Jackson Street met with Alderman Bauman on November 29, 2010. At this meeting, Alderman Bauman stated, among other things, that there “was no way that the project will be approved before April 2011,” a reference to a key date in Jackson Street’s agreement with Marriott that Alderman Bauman learned after demanding to review the Marriott contract. It is important to remember that prior to November 29, 2010, Jackson Street had not even had an opportunity to make a presentation of the project to HPC. The ordinances and bylaws which govern HPC clearly require HPC to make a decision before April 2011.

3. At the meeting on November 29, 2010 Alderman Bauman also stated that it would be illegal for the Common Council to take any action which would permit the demolition of the buildings located on the Properties, Alderman Bauman stated that only HPC can decide whether to permit the buildings to be demolished. Alderman Bauman appears to be attempting to circumvent the legislative process.

4. We have been told that Alderman Bauman has actively solicited and promoted an alternative project for the Properties. More specifically, at the meeting on November 29, 2010, Alderman Bauman stated that David Uihlein has come up with an alternative proposal for the site and it was inferred that Alderman Bauman would support this alternative project. Upon information and belief, we have been told that Alderman Bauman has been actively supporting this alternative project in meetings with other Aldermen. The individuals proposing the alternative project have no contractual rights to the Properties.

Mr. Ronald D. Leonhardt  
Mr. Jim Owczarski  
Alderman Robert J. Bauman  
Mr. Paul Jakobovic  
December 3, 2010  
Page 4

5. In an article published in the Business Journal on November 2, 2010, Alderman Bauman stated, "this argument that somehow these buildings cannot be re-used is just bogus." The Application was not filed until November 3, 2010 and we have not even made a presentation to HPC, yet Alderman Bauman has already made a decision on the Application.

6. On November 15, 2010 representatives of Jackson Street met with Alderman Kovac and Alderman Kovac stated he had just met with Alderman Bauman. Alderman Kovac indicated it was Alderman Bauman's intention to hold up the Application at HPC for an extended period of time. Once again, this occurred before Jackson Street was able to make a presentation to HPC.

7. In an email to Dan Wycklendt of RCI First Pathways dated October 6, 2010, Alderman Bauman stated "I will not support any plan that involves the demolition of the buildings in the historic district." As stated above, the Application was not even submitted until November 3, 2010; how can a member of HPC state he does not support the project if he has not seen the plan or heard a presentation of the plan?

All of these actions clearly indicate that Alderman Bauman lacks impartiality and the ability to act in a manner consistent with his duties as a member of HPC.

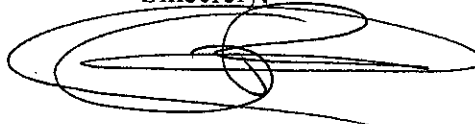
### III. Request for Due Process and Prompt Decision.

HPC's review of the Application is a quasi-judicial proceeding in which the HPC has authority to issue, deny, modify or defer for up to one year the Application. Accordingly, our client is entitled to all of the protections of due process granted pursuant to the U.S. Constitution, the State of Wisconsin Constitution and all other applicable laws. It has come to our attention that HPC believes it has a right to table any action on the Application for an extended period, which we believe is contrary to the ordinance. In fact, HPC has allegedly already decided to table any action on the Application for an extended period of time in an effort to extend the ultimate decision date beyond April 2011, hoping that such a delay would result in the termination of our client's contract with Marriott. Any actions or decisions on behalf of the HPC prior to the hearing, as well as any actions to intentionally table a ruling on the Application are in direct conflict with our client's due process rights. Jackson Street will incur substantial damages if Jackson Street's due process rights are denied. Consequently, we demand that HPC approve, deny, approve with modifications or vote to defer any actions for up to one year rather than table a decision.

Mr. Ronald D. Leonhardt  
Mr. Jim Owczarski  
Alderman Robert J. Bauman  
Mr. Paul Jakobovic  
December 3, 2010  
Page 5

We are reserving all rights under the United States Constitution, the Wisconsin Constitution, Section 32.10 of the Wisconsin Statutes and any other rights or remedies that Jackson Street may have at law or in equity.

Sincerely,

A handwritten signature in black ink, appearing to read 'Thomas P. DeMuth', enclosed within a large, loopy oval scribble.

Thomas P. DeMuth

cc: Mayor Tom Barrett  
Mr. Patrick Curly  
Alderman William L. Hines, Jr., Council President