

GRANT F. LANGLEY
City Attorney

RUDOLPH M. KONRAD
LINDA ULISS BURKE
VINCENT D. MOSCHELLA
Deputy City Attorneys



THOMAS O. GARTNER
BRUCE D. SCHRIMPF
SUSAN D. BICKERT
STUART S. MUKAMAL
THOMAS J. BEAMISH
MAURITA F. HOUREN
JOHN J. HEINEN
DAVID J. STANOSZ
SUSAN E. LAPPEN
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
KATHRYN Z. BLOCK
MEGAN T. CRUMP
ELOISA DE LEÓN
ADAM B. STEPHENS
KEVIN P. SULLIVAN
BETH CONRADSON CLEARY
THOMAS D. MILLER
HEIDI E. GALVÁN
JARELY M. RUIZ
ROBIN A. PEDERSON
Assistant City Attorneys

May 4, 2009

Ronald D. Leonhardt
City Clerk
City Hall, Room 205

Re: Common Council File No. 081687
A substitute ordinance relating to special privilege procedures

Dear Mr. Leonhardt:

With the exception of the proposed increase in required insurance levels, discussed below, it is our opinion that the proposed ordinance is legal and enforceable. Accordingly, we are returning the file so that it can be amended to delete the proposed changes to the required insurance levels, leaving the current levels in place for the time being. The Department of Public Works and the City Clerk Licensing Division have no objection to keeping the insurance requirements at their current levels for the time being. The Council may act on the remainder of the file.

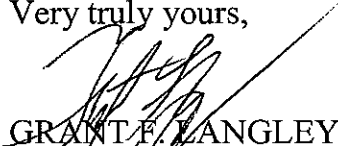
Based on our conversations with staff from the DPW and the Licensing Division, the reasons are not clear for increasing the public liability insurance requirements to the proposed levels. The proposed insurance levels appear to be out of proportion to other insurance requirements contained in the Milwaukee Code of Ordinances for similar uses. For example, the proposed ordinance would require a holder of a special privilege for a handrail or bench to possess public liability insurance of \$100,000 for bodily injury to one person, \$200,000 for bodily injury to more than one person in any one accident, and \$40,000 for property damage while requiring insurance levels of \$25,000, \$50,000, and \$10,000 for a permit to place a bike rack in the public right of way. There may be a rational basis for increasing the special privileges insurance requirements but the insurance requirements should be increased as part of a comprehensive review of insurance

• Ronald D. Leonhardt
May 4, 2009
Page 2


requirements for similar encroachments in the public right of way and similar uses.

We also note a typographical error in line 8 of proposed § 245-12-3-b: "covering property damage to any one owner on the area *or* areas."

Very truly yours,



GRANT F. LANGLEY
City Attorney



THOMAS D. MILLER
Assistant City Attorney

TDM:wt:145556

c: Alderman Robert Bauman
Rebecca Grill, Manager, License Division
Dawn Schmidt, Department of Public Works
Barry Zalben, Director, Legislative Reference Bureau