

CITY OF MILWAUKEE

Form CA-43

GRANT F. LANGLEY
City Attorney

RUDOLPH M. KONRAD
Deputy City Attorney

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
DAWN M. BOLAND

Assistant City Attorneys

June 9, 2003

Public Improvements Committee
Common Council, Room 205
200 East Wells Street
Milwaukee, WI 53202

Attn: Robert Harvey, Staff Assistant

Re: The Definition of "Owners of Property Along the Street" As Used In §113-4-a-7 of the Milwaukee Code of Ordinances

Dear Committee Members:

By correspondence dated May 27, 2003, you requested an opinion as to whether the phrase "50% of the owners of property along the street" as used in §113-4-a7 of the Milwaukee Code of Ordinances, included property owners of abutting side streets or whether the aforementioned language was limited to those addresses adjacent to the street to be renamed.

The purpose of all statutory construction is to determine the intent of the legislature. *Town of Barton v. Division of Hearings and Appeals*, 256 Wis.2d 628, 649 N.W.2d 293 (2002). Therefore, any analysis of §113-3-4-a-7 of the Milwaukee Code of Ordinances begins with the language of the ordinance itself. If the ordinance clearly and unambiguously sets forth the legislative intent, any inquiry ends with the

Public Improvements Committee

June 9, 2003


Page 2

application of the plain meaning of the ordinance. *Cemetery Services, Inc. v. Department of Regulation and Licensing*, 221 Wis.2d 817, 825 586 N.W.2d 191, 195 (Ct. App. 1998). It is our opinion that the express and unambiguous language contained in this ordinance, merely requires a petition signed by 50% of the owners holding title of property **adjacent** to the street that is to be renamed, and does not include side streets.

The second issue raised in your correspondence is whether the Common Council may make an exception to the 50% requirement when a "majority" property owner refuses to sign the petition. In your example, there are three parcels. The non-signing owner owns two of the parcels. In this instance, it appears that more than 50% of the "owners" have not signed the petition, even though there are only two owners. In addition, the ordinance as currently written states that a street renaming petition cannot be considered unless "the number of signatures exceeds 50% of the number of **parcels** along the street." (Emphasis added). Thus, you will need an ordinance amendment to make the change you desire.

If you have any further questions regarding this matter, please feel free to contact our office.

Very truly yours,



GRANT F. LANGLEY
City Attorney



DAVID J. STANOSZ
Assistant City Attorney

DJS/ms

1055-2003-1731/68454

c: Ronald Leonhardt