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Administrative Review Appeals Board
City Hall, Room 205
200 E. Wells St.
Milwaukee, WI 53202

Re: Appeal of Ken Bartels (KB CO 2488, LLC)
DPW Weed Notice Charge – 2488 S 18th St

The undersigned is counsel for appellant. This appeal challenges the sufficiency of the notice given to the property owner to correct the violation of weeds over 7 inches (prohibited by MCO No. 80-17) at appellant's rental property at 2488 S. 18th St.

The date of the notice was 09/29/16. It was not mailed via US mail or delivered as an electronic notification to the owner, who had requested to be notified of any violations of the building or nuisance codes via the City's e-notify system. The notice was simply posted on the premises and the tenant either failed to see the notice or failed to notify the landlord/owner of its issuance.

The City's assessment notice in the amount of \$198.47 (WN-66978-2017) dated November 11, 2016 states that "written notification to property owners/tenants in violation of this ordinance is not required." The City apparently relies on sec. 66.0407(4), Wis. Stats., which allows for annual publication of a legal notice requiring the destruction of noxious weeds.

However, the assessment being appealed is not imposed pursuant to a state statute but instead alleges a violation of the City's "Hay fever Weeds, etc." ordinance, MCO s. 80-17. Per MCO s. 80-2 the "city official" authorized to abate nuisances must do so "in accordance with the procedure prescribed in s. 80-8." In turn, sec. 80-8 requires the commissioner "to give **notice in writing** to the person" in charge of the premises to abate the nuisance (emphasis added).

The posting of a notice at the rental premises to abate the weed condition instead of mailing it to the owner at the owner's address as recorded with the City's rental recording program (or at a minimum emailing such a notice) does not comply with MCO s. 80-8. Further, it imposes a fine, penalty or special charge without due process of law.

Respectfully submitted,


Heiner Giese